



THE CITY OF COLORADO SPRINGS

AND THE

PIKES PEAK AREA  
COUNCIL OF GOVERNMENTS



Pikes Peak Area  
Council of Governments  
Communities Working Together

# **REQUEST FOR PROPOSAL**

## **Professional Engineering Consultant Services**

### **R22-028KK**

Date Issued: February 8, 2022

FOR

## **ENGINEERING SERVICES**

for

## **US HIGHWAY 24 AND PETERSON ROAD INTERCHANGE DESIGN PLANNING**

**THE CITY OF COLORADO SPRINGS**  
and the  
**PIKES PEAK AREA COUNCIL OF GOVERNMENTS**

**PROPOSALS ARE DUE NO LATER THAN**

**2:00 P.M. THURSDAY, MARCH 17, 2022**

***Contact:***

Kelli Kennedy, Contracts Specialist  
107 N. Nevada, Suite 125  
City of Colorado Springs, Colorado 80903  
(719) 385-5287  
E-Mail: [kelli.kennedy@coloradosprings.gov](mailto:kelli.kennedy@coloradosprings.gov)

The City of Colorado Springs requests Time and Material (T&M) proposals, as detailed in this Request for Proposal (RFP), for Preliminary Engineering for the US Highway 24 and Peterson Road Interchange Project. Selection will be qualifications based, subject to successful negotiation of detailed scope and fee.

This RFP is posted to BidNet's Rocky Mountain E-Purchasing System.

**SUBMITTALS FOR THIS PROJECT WILL ONLY BE ACCEPTED ON  
BIDNET**

Please login to the following website to register to submit a proposal for this project. All required documents will be uploaded to the website:

<https://www.rockymountainbidsystem.com>

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## SECTION I – PROPOSAL INFORMATION

### 1.1 PROPOSAL INFORMATION

Section I provides general information to potential Offerors, such as proposal submission instructions and other similar administrative elements. This RFP is available on Rocky Mountain E-Purchasing System (<https://www.bidnetdirect.com/colorado>). All addenda or amendments shall be issued through the Rocky Mountain E-Purchasing System and may not be available through any other source.

### 1.2 RFP SCHEDULE OF EVENTS

The upcoming schedule of events is as follows:

<u>Event</u>	<u>Date</u>
Issue Request for Proposal	February 8, 2022
Pre-Proposal Conference	None, please submit any questions via bidnet
Cut Off Date for Questions	February 24, 2022 10:00 am MST

Questions about the RFP must be submitted online to the Bidnet portal at [www.bidnetdirect.com](http://www.bidnetdirect.com). A written response to any inquiry may be provided in the form of an Amendment to the solicitation. See 1.7 Amendments. Questions must be received no later than Date and time listed above.

DO NOT CONTACT ANY OTHER INDIVIDUAL AT THE CITY OF COLORADO SPRINGS REGARDING THIS SOLICITATION.
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**The only acceptable method of submitting questions is via bidnet, Email, Faxes or physical mail delivery are not acceptable.**

Proposal Due Date	March 17, 2022 2:00 PM MST
Interviews (if applicable)	TBD
Award of Contract	EST March 2022
Notice to Proceed	EST March 2022

### 1.3 SUBMISSION OF PROPOSAL

- A. Proposals are to be submitted electronically online at Rocky Mountain E-Purchasing System ([www.bidnetdirect.com](http://www.bidnetdirect.com)). Please review the submission requirements *well in advance* of submission date and time; and allow for ample time to upload each required document.

- B. It is recommended that Offerors begin the submission process at least one (1) day in advance of the proposal deadline.
- C. Offerors are solely responsible to ensure their bid documents are uploaded and submitted correctly, and that a **confirmation number** is obtained upon successful submission.
- D. Customer Support Team for [www.bidnetdirect.com](http://www.bidnetdirect.com) can be reached 1-800-835-4603.

\*\*\*\*\***NO LATE OFFERS WILL BE ACCEPTED**\*\*\*\*\*

**Date/Time:** Proposals shall be received on or before 2:00PM Mach 17, 2022.

#### **1.4 NUMBER OF COPIES**

Proposals are to be submitted electronically online to the Rocky Mountain E-Purchasing system. ([www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com))

#### **1.5 SPECIAL TERMS**

Please note the following definitions of terms as used herein:

The term "City" means the City of Colorado Springs.

The term "Contractor" or "Consultant" means the Offeror whose offer is accepted and is awarded the contract to provide the products or services specified in the RFP.

The term "Offer" means the proposal.

The term "Offeror" means the person, firm, or corporation that submits a formal proposal or offer and that may or may not be successful in being awarded the contract.

The term "Project" refers to the US Highway 24 and Peterson Road Interchange Project.

The term "Request for Proposal" or "RFP" means this solicitation of a formal, negotiable proposal/offer. Any offer that is accepted will be the offer that is deemed by the City of Colorado Springs to be most advantageous in terms of the criteria designated in the RFP.

#### **1.6 RFP OBJECTIVE**

The objective of this RFP is to provide sufficient information to enable qualified Offerors to submit written proposals to the City of Colorado Springs. The RFP is not a contractual offer or commitment to purchase products or services. The Offeror may present options and variables to the scope while still meeting the minimum requirements of this solicitation. Innovative proposals/solutions are encouraged and considered in the selection and/or award.

All information included in proposals must be legible. Any and all corrections and or erasures must be initialed by Offeror. Each proposal shall be accompanied by a cover letter signed by an authorized representative of the Offeror. The contents of the proposal submitted by the successful Offeror may become part of any contract awarded as a result of this solicitation.

## **1.7 CONFIDENTIAL OR PROPRIETARY INFORMATION**

If an Offeror believes that parts of an offer are confidential, then the Offeror must so specify. The Offeror must include in bold letters the term “CONFIDENTIAL” on that part of the offer which the Offeror believes to be confidential. The Offeror must submit in writing specific detailed reasons, including any relevant legal authority, stating why the Offeror believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. The City of Colorado Springs will be the sole judge as to whether a claim is acceptable. Decisions regarding the confidentiality of information will be made when requests are made to make the information public. All offers and parts of offers, which are not marked as confidential, will automatically be considered public information after the contract is awarded. The successful offer may be considered public information even though parts are marked confidential.

## **1.8 AMENDMENTS**

Amendments to this RFP may be issued at any time prior to the time set for receipt of proposals. Offerors are required to acknowledge receipt of any amendments issued to this RFP by returning a signed copy of each amendment issued. Signed copies of each amendment must be received on or before the time set for receipt of offers.

The City of Colorado Springs will post all amendments on the Rocky Mountain E-Purchasing System (<https://www.bidnetdirect.com/colorado>). It is the Offeror's responsibility to check the website for posted amendments or contact the Contracts Specialist listed to confirm the number of amendments which have been issued.

## **1.9 WITHDRAWAL OR MODIFICATION OF OFFERS**

Any Offeror may modify or withdraw an offer in writing at any time prior to the deadline for submission of an offer.

## **1.10 ACCEPTANCE**

Any offer received and not withdrawn shall be considered an offer, which may be accepted by the City of Colorado Springs based on initial submission without discussions or negotiations.

By submitting an offer in response to this solicitation, the Offeror agrees that any offer it submits may be accepted by the City of Colorado Springs at any time within 90 calendar days from the date of submission deadline.

The City of Colorado Springs reserves the right (a) to reject any or all offers, (b) to waive informalities and minor irregularities in offers received, and/or (c) to accept any portion of

an offer if deemed in the best interest of the City of Colorado Springs. Failure of the Offeror to provide in its offer any information requested in the RFP may result in rejection of the offer for non-responsiveness.

#### **1.11 PROPOSAL PREPARATION COST**

The cost of proposal preparation is not a reimbursable cost. Proposal preparation shall be at the Offeror's sole expense and is the Offeror's total and sole responsibility.

#### **1.12 AWARD**

The City of Colorado Springs intends to make an award using the evaluation criteria listed in this RFP to determine the best value, considering all factors and criteria in the proposals submitted. Best value means the expected outcome of an acquisition that, in the City's estimation, provides the greatest overall benefit in response to the requirements detailed in the RFP. The City of Colorado Springs reserves the right to reject any or all offers and to not make an award.

#### **1.13 PERFORMANCE PERIOD**

The performance period of any contract awarded as a result of this RFP is anticipated to be as follows.

March 2022 – December 31, 2024

#### **1.14 DEBRIEFING**

Offerors not selected may request a debriefing on the selection process as well as discussion of the strengths and weaknesses of their proposal upon receipt of notification that their offer was not selected.

A debriefing may be scheduled by contacting the Contracts Specialist listed above. The Contracts Specialist must receive a written request for debriefing no later than ten (10) calendar days after issuance of a notification that the Offeror's offer was not selected.

#### **1.15 SUBSTANTIVE PROPOSALS**

By responding to this RFP, the Offeror certifies (a) that Offeror's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) that Offeror has not directly or indirectly induced or solicited any other offerors to put in a false or sham proposal; (c) that Offeror has not solicited or induced any other person, firm, or corporation to refrain or abstain from proposing an offer or proposal; (d) that Offeror has not sought by collusion to obtain for themselves any advantage over any other offerors or over the City of Colorado Springs; and (e) that Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City's Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City's Procurement Rules and Regulations.

## **1.16 OFFEROR'S QUALIFICATIONS**

Each Offeror must complete Exhibit 6 – Qualification Statement.

No contract will be awarded to any Offeror who is in arrears to the City, upon any debt or contract, or who is in default, in any capacity, upon any obligation to the City or is deemed to be irresponsible or unreliable by the City based on past performance.

## **1.17 NON-COLORADO ENTITIES**

If Offeror is a foreign entity, Offeror shall comply with C.R.S. section 7-90-801, “Authority to transact business or conduct activities required,” and section 7-90-802, “Consequences of transacting business or conducting activities without authority.”

Before or at the time that the contract is awarded to an entity organized or operating outside the State of Colorado, such entity shall obtain authorization to do business in the State of Colorado, designate a place of business herein, and appoint an agent for service of process.

Such entity must furnish the City of Colorado Springs with a certificate from the Secretary of the State of Colorado to the effect that a certificate of authority to do business in the State of Colorado has been issued by that office and is still valid. The entity shall also provide the City with a certified copy of the designation of place of business and appointment of agent for service of process from the Colorado Secretary of State, or a letter from the Colorado Secretary of State that such designation of place of business and agent for service of process has been made.

## **1.18 PROCUREMENT RULES AND REGULATIONS**

All projects advertised by the City of Colorado Springs are solicited in accordance with the City's Procurement Rules and Regulations. The City's Procurement Rules and Regulations can be reviewed and/or downloaded from the City website [www.coloradosprings.gov](http://www.coloradosprings.gov). The Contracts Specialist may also provide a softcopy of the Rules and Regulations upon request. Any discrepancies regarding conflicting statements, decisions, irregularities, clauses, or specifications will be rectified utilizing the City's Procurement Rules and Regulations, when applicable. It is the Offeror's responsibility to advise the Contracts Specialist listed in this RFP of any perceived discrepancies prior to the date and time the offer is due.

## **1.19 FAIR TREATMENT OF OFFERORS**

The City Procurement Services Division shall be responsible for ensuring the procurement of products, commodities, and services are in a manner that affords all responsible businesses a fair and equal opportunity to compete. If an Offeror believes that a procurement is not conducted in a fair and equitable manner, the Offeror is encouraged to inform the City Procurement Services Manager as soon as possible.



## **1.20 ORDER OF PRECEDENCE**

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order:

- (a) Sections I-IV of this Solicitation
- (b) Statement of Work
- (c) Other Appendices, Schedules, Exhibits, or Attachments

## **1.21 RESERVED**

## **1.22 INTERPRETATION OF PLANS AND SPECIFICATIONS**

Any change to proposal forms, plans, or specifications prior to the opening of proposals will be issued by the City in the form of an Amendment. Certain individuals may be named in the RFP that have authority to provide information, clarification, or interpretation to Offerors prior to opening of proposals. Information obtained from persons other than those named individuals is invalid and shall not be used for proposal purposes.

## **1.23 COMBINATION OR CONDITIONAL PROPOSALS**

If an RFP is issued for projects in combination and separately, the Offeror may submit proposals either on the combination or on separate units of the combination. The City reserves the right to make awards on combination or separate proposals to the advantage of the City. Combination proposals will be considered, only when specified.

## **1.24 ANTI-COLLUSION AFFIDAVIT**

The Offeror by signing their proposal submitted to the City is certifying that the Offeror has not participated in any collusion or taken any action in restraint of free competitive bidding. This statement may also be in the form of an affidavit provided by the City and signed by the Offeror. The original of the signed anti-collusion affidavit, if separately required and provided with the RFP, shall be submitted with the proposal. The proposal will be rejected if it does not contain the completed anti-collusion affidavit.

## SECTION II – PROPOSAL CONTENT

### 2.1 PROPOSAL CONTENT

Section II provides instructions regarding the format and content required for proposals submitted in response to this solicitation.

### 2.2 PROPOSAL FORMAT

Offeror's written proposal should include concise, but complete, information, emphasizing why the Offeror is best or best qualified to provide the required services. The Offeror's written proposal should include the information in the format outlined below and must be limited to no more than twenty-five (25) pages. **A page shall be defined as 8-1/2" x 11"; single sided, with one-inch margins, and a minimum font of Times New Roman 10.** Each section of the proposal should be labeled to clearly follow the requirements sections identified in this section of the RFP. The following listed Exhibits must be filled out and returned with the proposal and are not counted against the page limit:

- Exhibit 1 Proposal Certification
- Exhibit 3 Exceptions Form
- Exhibit 4 Minimum Insurance Requirements Form
- Exhibit 6 Qualifications Statement
- Exhibit 9 – Federal Forms, 9.1, 9.2, 9.3 & 9.4

### 2.3 COVER LETTER

The cover letter shall be no more than two pages. The cover letter shall contain at least the following information.

- A. RFP Number and Project Name.
- B. Statement that the Offeror is qualified to perform the work.
- C. Certification Statement that the information and data submitted are true and complete to the best knowledge of the individual signing the letter.
- D. Name, telephone number, email address, and physical address of the individual to contact regarding the proposal.
- E. The signature of an authorized principal, partner, or officer of the Offeror.

### 2.4 PROPOSAL CERTIFICATION

The Offeror must fill out and submit Exhibit 1, Proposal Certification, with its Proposal.

### 2.5 ORGANIZATIONAL BACKGROUND AND OVERVIEW

The Offeror must provide a brief history and overview of its company and its organizational structure, with special emphasis on how this project will fit within that structure.

## **2.6 TECHNICAL AREA**

### **A. Understanding of and Compliance with Technical Requirements:**

In the Technical Area, the Offeror should address each work area in sufficient detail to demonstrate a clear and full understanding of the work. The proposal should not merely parrot the requirements of the RFP. Further, the Offeror should provide evidence of sufficient planning to ensure the work is completed on schedule and within budget. The Offeror should submit their proposed key dates for major project milestones in tabular format. A detailed critical path project schedule is not required in the proposal. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. Does the proposal demonstrate a firm understanding of the requirements and goals of the Scope of Services, as well as industry standards and reasonable expectations for a company in the industry?
2. Does the proposal fully and completely address each requirement and goal of the Scope of Services?
3. Does the proposal provide solutions to indicate that requirements and goals will be met on schedule?
4. Does the technical solution seem realistic?
5. Does it generally appear that the offeror knows and thoroughly understands the business and requirement?

### **B. Project Approach**

In the Project Approach Area, the Offeror should clearly present proposed solutions and indicate that it has performed adequate planning to accomplish tasks as defined in the Statement of Work. Innovations, efficiencies, and detailed specifics are all encouraged. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. Does the proposal include a complete and timely plan to accomplish each requirement, including subcontracting (if applicable)?
2. Does the proposal demonstrate that appropriate and qualified personnel and equipment will be provided to carry out the requirement?
3. Is the proper level of effort directed toward each requirement? Does the level of effort look unrealistically low or unreasonably high?

## **2.7 MANAGEMENT AREA**

### **A. Project Management**

In this area, the Offeror should provide a plan of operation, to include management of personnel, workload, schedule, and budget. It should also include an organization chart which demonstrates clear and effective lines of authority, responsibility, and communication for management, supervisory, and technical personnel. The plan should address availability of the project team (including subconsultants) identified to work on this project in conjunction with their other work assignments. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. Does the proposal address the issues above in sufficient detail to demonstrate their management capabilities?
2. Are the people committed and available for this project, especially regarding schedule and level of effort?
3. Does the plan indicate that the offeror will obtain, keep, and efficiently utilize high quality personnel?
4. Does the offer address corrective actions?
5. Does the proposal explain how the offeror will remain within schedule and budget?

**B. Past Performance/Relevant Experience**

In this area, the Offeror should provide at least three references or contracts demonstrating that it successfully provided services/products same or similar to those required in the RFP. The proposal should adequately explain how the projects were completed on schedule and within budget. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. Does the proposal include at least three references or past performance citations?
2. Are the references or past performance citations relevant to the requirements of the Statement of Work of the RFP?
3. Does the offeror explain how they were successful on the projects provided as past performance?
4. Does the offeror apply the past performance to the City requirement in such a way as to demonstrate added value due to experience?

**C. Key Personnel**

In this area, the Offeror should describe the experience of key personnel (including subconsultants) assigned to the project and how their expertise provides value to the City. More detailed resumes can be included in an Appendix (the Appendix is not counted against the page limit). It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. Does the offeror provide complete personnel information, including education, experience, background information, accomplishments, and other pertinent information?
2. Does the offeror provide information for all key personnel, as required by the RFP?
3. Do the personnel assigned to the project demonstrate adequate professional, technical, and management levels to accomplish the work effectively and efficiently?

## **2.8 PROPOSAL PRESENTATION**

Although not a section of the proposal, presentation is an important factor. Offerors should provide a highly professional product, which is complete, accurate, easily understood, and effectively presented.

## **2.9 EXCEPTIONS**

All Offerors must complete and return with their proposal, Appendix 2, Exceptions Form. Some terms and conditions are not negotiable. Exceptions may be grounds for rendering the proposal unacceptable without further discussions.

## **2.10 INSURANCE REQUIREMENTS**

All Offerors must complete and return Appendix 3, Minimum Insurance Requirements. Lack of responsiveness in this area may be grounds for rendering the proposal unacceptable without further discussions.

## **2.11 PRICE / COST AREA (NOT EVALUATED)**

This is a Qualifications based selection; therefore, cost and price will be negotiated with the selected consultant.

## **SECTION III – EVALUATION FACTORS**

### **3.1 EVALUATION AND AWARD**

Section III provides information regarding evaluation criteria and scoring. It also includes information regarding proposal selection and award of the resultant contract.

### **3.2 EVALUATION CRITERIA**

#### **3.2.1 TECHNICAL AREA – UNDERSTANDING AND COMPLIANCE WITH TECHNICAL REQUIREMENTS**

See Section II - Item 2.6 A.

#### **3.2.2 TECHNICAL AREA – PROJECT APPROACH**

See Section II - Item 2.6 B.

#### **3.2.3 MANAGEMENT AREA – PROJECT MANAGEMENT**

See Section II - Item 2.7 A.

#### **3.2.4 MANAGEMENT AREA – PAST PERFORMANCE / RELEVANT EXPERIENCE**

See Section II – Item 2.7 B.

#### **3.2.5 MANAGEMENT AREA – KEY PERSONNEL**

See Section II – Item 2.7 C.

#### **3.2.6 PROPOSAL PRESENTATION**

See Section II – Item 2.8

#### **3.2.7 EXCEPTIONS AND INSURANCE**

See Section II – Items 2.9 and 2.10

### **3.3 RANKING**

3.3.1 The order of ranking or importance in the evaluation shall be as follows:

First: Understanding and Approach  
Second: Expertise and Qualifications  
Third: Proposal Presentation and Completeness  
Fourth: Proposal Exceptions

3.3.2 Possible scores for each criterion shall be as follows:

5 – Exceptional  
4 – Very Good  
3 – Satisfactory  
2 – Marginal

1 – Unacceptable

3.3.3 Definitions for scoring are as follows:

1. The following apply to the Expertise/Qualifications and Technical Areas:

Exceptional – The proposal meets all and exceeds many of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer all questions without need for further inquiry. There are no corrective actions required, and no compromise of requirements is needed.

Very Good -- The proposal meets all and exceeds some of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer most questions without need for further inquiry. There are no corrective actions required, and no compromise of requirements is needed.

Satisfactory -- The proposal meets the requirements of the RFP, and the information provided is of such a nature as to answer many questions without need for further inquiry. There are very few corrective actions required, and no substantive compromise of requirements is needed.

Marginal -- The proposal does not meet some of the requirements of the RFP, and the information provided is of such a nature as to require some clarification. There are some corrective actions required, and some non-substantive compromise of requirements is needed.

Unacceptable -- The proposal does not meet many of the requirements of the RFP, and the information provided is of such a nature as to require much clarification. There are many corrective actions required, and substantive compromise of requirements is needed.

2. The following apply to the Proposal Presentation Area:

Exceptional – The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality far exceeds that of the competition, industry standard, or reasonable expectation.

Very Good -- The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality exceeds that of the competition, industry standard, or reasonable expectation.

Satisfactory -- The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality is equal to that of the competition, industry standard, or reasonable expectation.

Marginal -- The proposal is not professionally communicated and is incomplete in some areas, provides insufficient detail, and is not presented in a clear and

effective manner. The quality is below that of the competition, industry standard, or reasonable expectation.

Unacceptable -- The proposal is not professionally communicated and is incomplete in many areas, provides insufficient detail, and is not presented in a clear and effective manner. The quality is far below that of the competition, industry standard, or reasonable expectation.

#### 3.3.4 Area Scoring

The score for each area will be determined by multiplying the sum of the criteria in each area by the area evaluation factor. The area evaluation factors are as follows:

Technical Area: 0.45

Management Area: 0.35

Proposal Presentation Area: 0.20

#### 3.3.5 Final/Overall Scoring

The final proposal score will be determined by adding the area scoring. The sum of the area scores will be the final/overall score.

### 3.4 **SELECTION COMMITTEE**

A selection committee will screen all proposals. Proposals will be ranked according to evaluation criteria above and scored as explained above. Through this process, the City will determine which proposals are acceptable or unacceptable. The City will notify, in writing, the participating firms whose proposals are deemed to be unacceptable. Those firms offering proposals deemed to be acceptable by the City will be evaluated and scored by the selection committee. This scoring will determine which Offerors are considered to be in the competitive range and may be the basis for an award decision without further steps.

If the selection committee elects not to award based upon evaluation scoring, it may engage in a forced elimination process. To inform this process, it may require oral presentations or interviews with the Offerors considered to be in the competitive range. If oral presentations or interviews are conducted, they may also be scored, or they may simply be considered as information supporting the forced elimination process. The selection committee may request revisions to the proposal from each of the Offerors at the conclusion of the interviews. However, if it is deemed necessary to seek revisions to the proposals at the conclusion of the interviews, then all interviewed Offerors will be requested to submit revisions, and the revisions will be scored accordingly. The goal of the forced elimination process is to reach consensus. The decision will be based on all relevant factors, based upon perception of the best value and may or may not reflect scoring ranking.

The City also reserves the right to request best and final offers from all Offerors.



### **3.5 AWARD OF CONTRACT**

It is anticipated that there will be negotiations or discussions with Offerors. However, the City reserves the right to award without negotiations or discussions. The City intends to award to the Offeror that demonstrates the best value to the City and the most substantiated ability to fulfill the requirements contained in this Request for Proposal. A contract prepared by the City will be finalized and/or negotiated with the successful Offeror. In the event a contract cannot be negotiated with the top ranked Offeror, the City may enter into negotiations with the second highest ranked Offeror, or the City may decide to call for new proposals. Immediately after the notice of award, the successful Offeror will begin planning in conjunction with the City of Colorado Springs staff (to be designated by the City) to ensure fulfillment of all its obligations. The successful Offeror may be expected to attend regular meetings as required by the City to assist in the preparation for startup.

## SECTION IV SPECIAL CONTRACT TERMS AND CONDITIONS

### 4.1 SPECIAL CONTRACT TERMS AND CONDITIONS/SPECIAL SOLICITATION PROVISIONS

In addition to the special contract terms and conditions listed below, the City's sample contract, see Exhibit 2, contains contract terms and conditions.

**ADA Standards:** It is a requirement of the City and required by law that any new or renovated facility meet the scoping and technical requirements of the 2010 ADA Standards for newly designed and constructed or altered local government facilities, public accommodations, and facilities. The selected Design Professional shall design the project so it both conforms to the 2010 ADA Standards, as applicable and as amended, and is readily accessible to and usable by individuals with disabilities. The selected Contractor shall build the project so it both conforms to the 2010 ADA Standards, as applicable and as amended, and is readily accessible to and usable by individuals with disabilities. Facilities that are designed, constructed, and/or altered facilities that meet or exceed the IBC 2015/ANSI A117.1 2009, used by Pikes Peak Regional Building Department, will be accepted as meeting, or exceeding the 2010 ADA Standards.

## **SECTION V EXHIBITS**

### **5.1 EXHIBITS**

Exhibit 1	Proposal Certification
Exhibit 2	Sample Contract
Exhibit 3	Exceptions
Exhibit 4	Minimum Insurance Requirements
Exhibit 5	Statement of Work
5.1	List of Known Documents
5.2	Peterson Gateway District Brochure 060120
5.3	Preliminary PAFB Hwy 24 Interchange Concept (Kimley Horn 2020)
Exhibit 6	Qualification Statement
Exhibit 7	Evaluation Scoresheet
Exhibit 8	Clauses for Contracts Subject to Federal Requirements
Exhibit 9	Federal Forms 9.1, 9.2, 9.3, & 9.4

## EXHIBIT 1 PROPOSAL CERTIFICATION

Check or Mark the space after each number to indicate compliance.

1. \_\_\_\_\_ Address of Offeror's Principal Place of Business:

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Does Offeror have an established office or facility in Colorado Springs?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate address below if different than Principal Place of Business.

Colorado Springs Facility - Year established \_\_\_\_\_

Address of Colorado Springs Facility:

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Percent of Work to be Performed from Principal Place of Business? \_\_\_\_\_

Percent of Work to be Performed from Colorado Springs Facility? \_\_\_\_\_

2. \_\_\_\_\_ Indicate your ability to provide a certificate of insurance evidencing the required coverage types and limits specified in Minimum Insurance Requirements Exhibit. (The certificate of insurance must reflect the City of Colorado Springs as an Additional Insured, as applicable.)

Indicate your ability to comply with the following requirements:

The City shall be added as an Additional Insured to all liability policies:

Yes \_\_\_\_\_ No \_\_\_\_\_

Your property and liability insurance company are licensed to do business in Colorado:

Yes \_\_\_\_\_ No \_\_\_\_\_

Provide the name of your property and liability insurance company here:

Name: \_\_\_\_\_

Your property and liability insurance company has an AM best rating of not less than B+ and/or VII:

Yes \_\_\_\_\_ No \_\_\_\_\_

Worker's Compensation Insurance is carried for all employees and covers work done in Colorado.

Yes \_\_\_\_\_ No \_\_\_\_\_

3. \_\_\_\_\_ Provide one (1) copy of current financial statements (if required). Enclose financial information in a separate envelope; do not bind with the other proposal copies. If review of the information is to be restricted to the City's financial officer, it must be marked accordingly.

4. \_\_\_\_\_ Provide the completed and signed proposal. (Proposals must be identified as specified in this RFP document). All required Exhibits are attached.

By signing below, the Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or any Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud.

Offeror has appointed \_\_\_\_\_ as the Offeror's representative and contact for all questions or clarifications in regard to this Offeror.

Telephone: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

The undersigned acknowledges and understands the terms, conditions, Specifications, and all Requirements contained and/or referenced and are legally authorized by the Offeror to make the above statements or representations.

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(City, State and Zip)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Name typed/Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(E-Mail Address)

**FEDERAL TAX ID # \_\_\_\_\_**

**This Company Is: Corporation\_\_\_\_ Individual\_\_\_\_ Partnership\_\_\_\_ LLC\_\_\_\_**

**Offeror hereby acknowledges receipt of the following amendments, if applicable** Offeror agrees that it is bound by all Amendments identified herein.

AMENDMENT #1\_\_\_\_\_ DATED: \_\_\_\_\_

AMENDMENT #2\_\_\_\_\_ DATED: \_\_\_\_\_

AMENDMENT #3\_\_\_\_\_ DATED: \_\_\_\_\_

**Please Note the attached Representations and Certifications must be initialed by Offeror in the spaces provided and returned with this certification.**

## **REPRESENTATIONS AND CERTIFICATIONS**

### **Exhibit 1 Continued**

#### **1. INSURANCE REQUIREMENTS**

Offeror shall comply with all insurance requirements and will submit the Insurance Certificates prior to performance start date. If limits are different from the stated amounts, Offeror shall explain variance. Certain endorsements and “additionally insured” statements may require further clarification and specific statements on a project specific basis and should have been described in the Offeror’s proposal.

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Initials for 1

#### **2. ETHICS VIOLATIONS**

- a) The Offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this clause in its own operations and direct business relationships.
- b) Offeror certifies the Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City’s Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City’s Procurement Rules and Regulations
- c) When the Offeror has reasonable grounds to believe that a violation described in this clause may have occurred, the Offeror shall promptly report the possible violation to the City Contracts Specialist in writing.
- c) The Offeror must disclose with the signing of this proposal, the name of any officer, director, or agent who is also an employee of the City and any City employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the Offeror’s firm or any of its branches.
- d) In addition, the Offeror must report any conflict or apparent conflict, current or discovered during the performance of the Contract, to the City Contracts Specialist.
- e) The Offeror shall not engage in providing gifts, meals, or other amenities to City employees. The right of the Offeror to proceed may be terminated by written notice issued by City Contracts Specialist if Offeror offered or gave a gratuity to an officer, official, or employee of the City and intended by the gratuity to obtain a contract or favorable treatment under a contract.
- f) The Offeror shall cooperate fully with the City or any agency investigating a possible violation on behalf of the City. If any violation is determined, the Offeror will properly compensate the City.
- g) The Offeror agrees to incorporate the substance of this clause (after substituting “Contractor” for “Offeror”) in all subcontracts under this offer.

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Initials for 2

#### **3. ILLEGAL ALIENS**

If Offeror has any employees or subcontractors, Offeror shall comply with § 8-17.5-101, et seq., C.R.S. regarding Illegal Aliens – Public Contracts for Services, and this section of this Agreement. 8-17.5-102 includes, in part, that:

- 1. Offeror shall not:

- a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
  - b. Enter into a contract with a subcontractor that fails to certify to Offeror that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
2. Offeror has verified or attempted to verify that Offeror does not employ any illegal aliens and, will participate in the E-Verify Program or State Department program in order to confirm eligibility of all employees who are newly hired to perform work under public contract for services.
3. Offeror will not use E-Verify Program or State Department program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.
4. If Offeror obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Provider shall:
  - a. Notify the subcontractor and the City within three days that Offeror has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - b. Terminate the subcontract with the subcontractor if within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien. However, the Offeror shall not terminate the contract with the subcontractor if during this three-day period:
    - i. The subcontractor provides information which establishes that the subcontractor has not knowingly employed or contracted with an illegal alien, and
    - ii. The Offeror will not employ the illegal aliens in the performance of any City contract.
5. Offeror shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in §8-17.5-102(5), C.R.S.
6. If Offeror violates this provision, the City may terminate the contract for a breach of contract. If the Agreement is terminated, the Offeror shall be liable for actual and consequential damages.

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Initials for 3

#### **4. COOPERATION WITH OTHER CONTRACTORS**

Other City activities/contracts may be in progress or start during the performance of this contract. The Offeror shall coordinate the work harmoniously with the other contractors or City personnel, if applicable.

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Initials for 4

#### **5. INTERNET USE**

Should the Offeror require access to City Internet resources in the performance of this requirement, a "Contractor's Internet Use Agreement" form must be separately signed by each individual having access to the City Network. The completed Contractor's Internet Use Agreement



will be maintained with this agreement. Inappropriate use of the City Network will be grounds for immediate termination of any awarded contract.

\_\_\_\_\_  
Initials for 5

## **6. LITIGATION**

If awarded a contract, Offeror shall notify the City within five (5) calendar days after being served with a summons, complaint, or other pleading in any matter which has been filed in any federal or state court or administrative agency. The Offeror shall deliver copies of such document(s) to the City's Procurement Services Manager. The term "litigation" includes an assignment for the benefit of creditors, and filings of bankruptcy, reorganization and/or foreclosure.

\_\_\_\_\_  
Initials for 6

## **7. CONTRACTOR'S REGISTRATION INFORMATION**

Offeror's firm verifies and states that they are (check all that apply):

- \_\_\_\_\_ Large Business (i.e., do not qualify as a small business or non-profit)
- \_\_\_\_\_ Nonprofit
- \_\_\_\_\_ Small Business
- \_\_\_\_\_ Minority Owned Business/Small Disadvantaged Business
- \_\_\_\_\_ Woman Owned Business
- \_\_\_\_\_ Veteran Owned Business
- \_\_\_\_\_ Service-Disabled Veteran Owned Business
- \_\_\_\_\_ HUBZone Business

Note: The City accepts self-certification for these categories in accordance with Small Business Administration (SBA) standards. The SBA size standards are found on the SBA website <https://www.sba.gov/content/am-i-small-business-concern>.

\_\_\_\_\_  
Initials for 7

## 8. CONTRACTOR PERSONNEL

- a) The Offeror shall appoint one of its key personnel as the "Authorized Representative" who shall have the power and authority to interface with the City and represent the Offeror in all administrative matters concerning this proposal and any awarded contract, including without limitation such administrative matters as correction of problems modifications, and reduction of costs.
- b) The Authorized Representative shall be the person identified in the Offeror's proposal, unless the Offeror provides written notice to the City naming another person to serve as its Authorized Representative. Communications received by the City Contracts Specialist from the Authorized Representative shall be deemed to have been received from the Offeror.

The individual, \_\_\_\_\_ (Name)

with position, \_\_\_\_\_ (Title)

Can be reached at

Work telephone number: \_\_\_\_\_

Home telephone number: \_\_\_\_\_

Cellular telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

\_\_\_\_\_  
Initials for 8

## 9. OFFEROR'S CERTIFICATION

The undersigned hereby affirms that:

- a) He/She is a duly authorized agent of the Offeror.
- b) He/She has read and agrees to the City's standard terms and conditions attached.
- c) The offer is presented in full compliance with the collusive prohibitions of the City of Colorado Springs. The Offeror certifies that no employee of its firm has discussed or compared the offer with any other offeror or City employee and has not colluded with any other offeror or City employee.
- d) The Offeror certifies that it has checked all of its figures and understands that the City will not be responsible for any errors or omissions on the part of the Offeror in preparing its proposal.
- e) By submitting an offer, the Offeror certifies that it has complied and will comply with all requirements of local, state, and federal laws, and that no legal requirements have been or will be violated in making or accepting this solicitation.

I hereby certify that I am submitting the proposal based on my company's capabilities to provide quality products and/or services on time.

\_\_\_\_\_  
Initials for 9

**10. OFFEROR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:**

1. The Offeror certifies to the best of its knowledge and belief, that (i) the Offeror and/or any of its Principals
  - a. Are ( ), Are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
  - b. Have ( ), Have not ( ), within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local) contract or subcontract; violation of Federal or state antitrust statutes relation to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property; and
  - c. Are ( ), Are not ( ) presently indicated for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in any paragraphs above.
2. The Offeror shall provide immediate written notice to the City Contracts Specialist if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reasons of changed circumstances.
3. The certification in paragraph 1. above, is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City Contracts Specialist may terminate the contract resulting from this solicitation for default. Termination for default may result in additional charges being levied for the costs incurred by the City to initiate activities to replace the awarded Contractor.

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Initials for 10

**11. ACCEPTANCE OF CITY CONTRACTS SPECIALIST'S SOLE AUTHORITY FOR CHANGES**

Unless otherwise specified in the Contract, the Offeror hereby agrees that any changes to the scope of work, subsequent to the original contract signing, shall be generated in writing and an approval signature shall be obtained from the City Contracts Specialist prior to additional work performance.

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Initials for 11

## 12. CITY CONTRACTOR SAFETY PROGRAM

The Offeror hereby agrees to adhere to a worker safety program for contractor employees on a City job site or location. By initialing below, the Offeror has reviewed the information and will abide by the City Policy which is available for review:

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

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Initials for 12

## 13. ACCEPTANCE OF CITY ENVIRONMENTALLY PREFERRED PURCHASING (EPP) POLICY

The City of Colorado Springs is committed to buying more environmentally preferable goods and services, as long as they meet performance needs, are available within a reasonable time and at a reasonable cost. The Offeror hereby acknowledges review of this policy by initialing below.

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

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Initials for 13

## 14. FRAUD, WASTE, AND ABUSE

Everyone has a duty to report any suspected unlawful act impacting the City of Colorado Springs operations and its enterprises. Anyone who becomes aware of the existence or apparent existence of fraud, waste, and abuse in City of Colorado Springs is encouraged to report such matters to the City Auditor's Office in writing or on the telephone hotline 385-2387 (ADTR). Written correspondence can be mailed to:

City Auditor  
P.O. Box 2241  
Colorado Springs CO 80901

Or via email [CityAuditManagement@springsgov.com](mailto:CityAuditManagement@springsgov.com). Any of these mechanisms allow for anonymous reporting. For more information, please go to the website <https://coloradosprings.gov/cityfraud>.

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Initials for 14

Name of Company:

Federal Tax ID Number:

DUNS Number:

Principle Place of Business:

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Signature of Authorized Representative

Printed Name:

Title:

Date:

## EXHIBIT 2 SAMPLE CONTRACT

### CONSULTANT SERVICES CONTRACT

Contract Number:		Project Name/Title	US Highway 24 & Peterson Rd Interchange Design Planning
Vendor/Contractor			
Contact Name:		Telephone:	
Email Address:			
Address:			
Federal Tax ID #		Please check one:	<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
City Contracting Specialist	Kelli Kennedy 719-385-5287	City Dept Rep	Name & Phone# & Department Name
NOT TO EXCEED Contract Amount:		City Account #	Acct Code (5) Fund (3) Dept (4) Project (7)
Contract Type:		Period of Performance:	

#### 1. INTRODUCTION

THIS Time & Material (T&M) CONTRACT ("Contract") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20xx by and between the City of Colorado Springs, a Colorado municipal corporation and home rule city, in the County of El Paso, State of Colorado, (the "City"), and \_\_\_\_\_ (the "Contractor").

THE CITY AND THE CONTRACTOR HEREBY AGREE AS FOLLOWS:

The City has heretofore prepared the necessary Contract Documents for the following Activity: US Highway & Peterson Rd Interchange Design Planning.

The Contractor did on the \_\_\_\_ day of \_\_\_\_\_, 20xx submit to the City the Contractor's written offer and proposal to do the work therein described under the terms and conditions therein set forth and furnish all materials, supplies, labor, services, transportation, tools, equipment, and parts for said work in strict conformity with the accompanying Contract Documents, which are attached hereto and incorporated herein by this reference, including the following:

1. This Contract
2. Appendix A – Additional Terms and Conditions
3. Appendix B – Contractor's Proposal,
4. Appendix C – Statement of Work.
5. Appendix D – Insurance Requirements

## **2. COMPENSATION/CONSIDERATION**

Subject to the terms and conditions of the Contract Documents, Contractor shall provide all materials, supplies, labor, services, transportation, tools, equipment, and parts to perform \_\_\_\_\_ services for the City of Colorado Springs in a good and workmanlike manner to the satisfaction of the City for the estimated price of \_\_\_\_\_, not to exceed \$\_\_\_\_\_ (“Not to Exceed estimate”). If the performance of this Contract involves the services of others or the furnishing of equipment, supplies, or materials, the Contractor agrees to pay for the same in full. At the time of payment by the City, the Contractor shall certify in writing that said payments have been so made.

This is a Time and Material (T&M) type contract. The Not to Exceed estimate is in accordance with the Contractor’s T&M proposal and rates, as included in the attached proposal, dated XXXXXX. All labor charges shall be in accordance with the T&M rates provided therein. Invoiced hours shall be subject to City review and approval before payable.

The parties estimate that performance of this Contract will not exceed the Not to Exceed estimate. The Contractor shall notify the City Contracts Specialist in writing whenever it has reason to believe that the costs the Contractor expects to incur under this Contract in the following 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified herein; or the total cost for the performance of this Contract will be either greater or substantially less than had been previously estimated. As part of the notification, the Contractor shall provide the Contracts Specialist a revised estimate of the total cost of performing this Contract.

The City is not liable for any costs above the Not to Exceed estimate, and the Contractor is not obligated to continue performance under this Contract (including actions under the Termination clause of this Contract) or otherwise incur costs in excess of the Not to Exceed estimate specified herein, until the City Contracts Specialist

- (i) notifies the Contractor in writing that the estimated cost has been increased and
- (ii) provides a revised estimated total not to exceed price of performing this Contract.

## **3. TERM OF CONTRACT**

It is further agreed that the Contractor will start work promptly and continue to work diligently until completed. The Contract Period of Performance shall be as follows:

March 2022 – December 31, 2024

## **4. INSURANCE**

The Contractor shall provide and maintain acceptable Insurance Policy(s) consistent with the Minimum Insurance Requirements attached as Appendix E, which includes Property, Liability and Professional Errors and Omissions coverage, and as otherwise listed in Appendix E. The City of Colorado Springs shall be reflected as an additional insured on the Property and Liability policy(s).

Further, Contractor understands and agrees that Contractor shall have no right of coverage under any existing or future City comprehensive, self, or personal injury policies. Contractor shall provide insurance coverage for and on behalf of Contractor that will sufficiently protect Contractor, or Contractor's agents, employees, servants or other personnel, in connection with the services which are to be provided by Contractor pursuant to this Contract, including protection from claims for bodily injury, death, property damage, and lost income. Contractor shall provide worker's compensation insurance coverage for Contractor and all Contractor personnel. Contractor shall file applicable insurance certificates with the City and shall also provide additional insurance as indicated in this Contract. ***A CURRENT CERTIFICATE OF INSURANCE IS REQUIRED PRIOR TO COMMENCEMENT OF SERVICES LISTING THE CITY AS ADDITIONALLY INSURED.***

## **5. RESPONSIBILITY OF THE CONTRACTOR**

- A. Contractor shall satisfactorily perform the professional services for all phases of the Project as indicated in Statement of Work, which is attached hereto and made a part hereof by reference.
- B. Upon completion of any phase or sub-phase, Contractor shall not proceed with work on the next phase or sub-phase, if any, until authorized in writing by City to proceed therewith.
- C. Such services shall include all usual and customary professional engineering services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical engineering, environmental, architectural and planning services. Unless expressly excepted, in Appendix A - Statement of Work hereto, Contractor shall also provide any other environmental, geotechnical, architectural, landscape architectural and surveying services incidental to its work on the Project. If architectural services are rendered, Contractor shall provide an attested statement on each drawing sheet that certifies the design complies with all applicable provisions of the Americans with Disabilities Act. In performing the professional services, Contractor shall complete the work items described generally in Statement of Work and the items identified in this Section 5 of this Contract which are applicable to each phase for which Contractor is to render professional services.
- D. Professional engineering services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered Professional Engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Contract shall be the same as at least one record set which shall be furnished to City and which shall be signed by and bear the seal of such registered Professional Engineer.
- E. Surveying work included within or reasonably contemplated by this Contract shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Contract shall be signed by and bear the seal of said Professional Land Surveyor.



- F. Any architectural services provided under this Contract shall be performed under the direction and supervision of an architect duly licensed and authorized.
- G. All drawings and specifications furnished by the Contractor under this Contract ("Drawings" and "Specifications") shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with the 2010 ADA Standards for Accessible Design now existing and as may be amended, supplemented, or superseded from time to time ("ADA Standards"). Contractor shall include an attest statement on each record drawing sheet of final plan drawings that certifies that the design is compliant with the ADA Standards.
- H. The Contractor shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all designs, drawings, specifications, and other Statement of Work services furnished by the Contractor under this Contract, including that performed by Contractor's consultants, and including designs, Drawings, Specifications, reports and other services, irrespective of City's approval or acquiescence in same. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in services provided under this Contract to the satisfaction of the City.
- I. Contractor shall be responsible, in accordance with applicable law, to City for all loss or damage to City caused by Contractor's negligent act or omission; except that Contractor hereby irrevocably waives and excuses City and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.
- J. Contractor's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope and nature of the Project.
- K. Contractor shall be completely responsible for the safety of Contractor's employees in the execution of work under this Contract, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend City from any and all claims, suits, losses or injuries to Contractor's employees.
- L. Contractor acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, City has a substantial interest in the personnel and consultants to whom Contractor assigns principal responsibility for services performed under this Contract. Consequently, Contractor represents that Contractor has selected and intends to employ or assign the key personnel and consultants identified in Appendix \_\_\_\_ - "Identification of Personnel, Subcontractors and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Contract, City shall have the right to object in writing to employment on the Project of any such key person, consultant or assignment of principal responsibility, in which case Contractor will employ alternate personnel for such function or reassign such responsibility to another to whom City has no reasonable objection. Thereafter, Contractor shall not assign or reassign Project work to any person to whom City has reasonable objection.

The key personnel listed in Appendix \_\_\_\_ - "Identification of Personnel, Subcontractors and Task Responsibility" will be the individuals used in the performance of the work unless objected to by the City as provided in the immediately preceding paragraph. If any of the listed key personnel leave employment or are otherwise not utilized in the performance of the work, approval to substitute must be obtained by the Contractor from the City's delegated Project Manager. Any substitute shall have the same or a higher standard of qualifications that the key personnel possessed at the time of Contract award.

Within 5 days of execution of this Contract, Contractor shall designate in writing a Project representative who shall have complete authority to bind Contractor, and to whom City should address communications.

- M. Promptly after execution of this Contract and upon receipt of authorization from City to proceed, Contractor shall submit to City for approval a schedule showing the order in which Contractor proposes to accomplish its work, with dates on which it will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay City's time table for achievement of interim tasks and final completion of Project work, provided however, the Contractor will not be responsible for delays beyond its control.
- N. Before undertaking any work which Contractor considers beyond or in addition to the scope of work and services which Contractor has contractually agreed to perform under the terms of this Contract, Contractor shall advise City in writing (i) that Contractor considers the work beyond the scope of this Contract, (ii) the reasons the Contractor believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Contractor shall not proceed with such out of scope or additional work until authorized in writing by City. The compensation for such authorized work shall be negotiated, but in the event the Parties fail to negotiate or are unable to agree as to compensation, then Contractor shall be compensated for his direct costs and professional time at the rates set forth in Exhibit \_\_\_\_ - "Fee Schedule".
- O. Design within Funding Limitation: The Contractor shall accomplish the design services required under this Contract so as to permit the award of a construction contract at a price that does not exceed the estimated construction contract price plus ten percent (10%) as set forth below.
  - 1. When lowest responsive and responsible bids or proposals for the construction contract are received that exceed the estimated price, the Contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this Contract. However, the Contractor shall not be required to perform such additional services without additional compensation if the unfavorable bids or proposals are the result of conditions beyond its reasonable control i.e. City directed scope changes, unknown design problems are encountered, or a volatile construction market at the time of bid as compared to the construction market at the date this Contract is executed.
  - 2. The Contractor must promptly advise the Project Manager if it finds that the Project being designed will exceed or is likely to exceed the funding limitations and it is unable to design the Project within the funding limitation.

3. The estimated contract price for the Project described in this Contract is \$ XXX,XXX (plus/minus 10%).

- P. The City's review, approval of, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the City for any and all damages to the City caused by the Contractor's negligent performance of any of the services furnished under this Contract.
- Q. The rights and remedies of the City provided for under this Contract are in addition to any other rights and remedies provided by law.
- R. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.
- S. The Contractor shall be obligated to provide services as an expert witness in connection with any public hearings or legal "proceedings" for a period of five (5) years following the completion of the Project. The Contractor shall be reimbursed for such service unless the basic issue of such hearing or "proceeding" concerns sufficiency of the Contractor services as outlined in this Contract. The Contractor hereby agrees to relieve the City from all claims and liability due to the Contractor's negligence.
- T. The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work to be performed under this Contract shall be accomplished or reviewed and approved by architects or engineers registered in the state of Colorado to practice in the professional field involved.

## **6. WORK OVERSIGHT**

- A. The extent and character of the work to be done by the Contractor shall be subject to the general approval of the City's delegated Project Manager.
- B. If any of the work or services being performed does not conform with Contract requirements, the City may require the Contractor to perform the work or services again in conformity with Contract requirements, at no increase in Contract amount. When defects in work or services cannot be corrected by re-performance, the City may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the work or services performed.
- C. If the Contractor fails to promptly perform the defective work or services again or to take the necessary action to ensure future performance is in conformity with Contract requirements, the City may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such work or service or (2) terminate the Contract for breach of contract.

## **7. SUBCONTRACTORS, ASSOCIATES, AND OTHER CONTRACTORS**

- A. Any subcontractor, outside associates, or other contractors used by the Contractor in connection with Contractor's work under this Contract shall be limited to individuals or

firms that are specifically identified by the Contractor in the Contractor's proposal and agreed to by the City. The Contractor shall obtain the City's Project Manager's written consent before making any substitution of these subcontractors, associates, or other contractors.

- B. The Contractor shall include a flow down clause in all of its subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall cause all of the terms and conditions of this Contract, including all of the applicable parts of the Contract Documents, to be incorporated into all subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall provide clearly that there is no privity of contract between the City and the Contractor's subcontractors, outside associates, and other contractors.

## **8. KEY PERSONNEL**

The key personnel listed in the proposal and/or below will be the individuals used in the performance of the work. If any of the listed key personnel leave employment or are otherwise not utilized in the performance of the work, approval to substitute must be obtained by the Contractor from the City's Project Manager. Any substitute shall have the same or a higher standard of qualifications that the key personnel possessed at the time of Contract award.

## **9. START AND CONTINUANCE OF WORK**

It is further agreed that the Contractor will start work promptly and continue to work diligently until this Contract is completed.

## **10. APPROPRIATION OF FUNDS**

This Contract is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Contract.

## **11. CHANGES**

The Contractor and the City agree and acknowledge as a part of this Contract that no change order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount

payable under the Contract to exceed the amount appropriated for this Contract as listed above, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision of this Contract. The Contractor and the City further agree and acknowledge as a part of this Contract that no change order or other form or order or directive which requires additional compensable work to be performed under this Contract shall be issued by the City unless funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this Contract, the Contractor shall not be entitled to any additional compensation for any change which increases or decreases the Contract completion date, or for any additional compensable work performed under this Contract, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the Contractor is given a written change order describing the change in Contract completion date or the additional compensable work to be performed, and setting forth the amount of compensation to be paid, and such change order is signed by the authorized City representative, as defined below. The amount of compensation to be paid, if any, shall be deemed to cover any and all additional, direct, indirect or other cost or expense or profit of the Contractor whatsoever. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.

No change, amendment, or modification to this Contract shall be valid unless duly approved and issued in writing by the City of Colorado Springs Procurement Services Division. The City shall not be liable for any costs incurred by the Contractor resulting from work performed for changes not issued in writing by the City of Colorado Springs Procurement Services Division.

The following personnel are authorized to sign changes, amendments, or modifications to this Contract.

The Project Manager: Changes up to \$14,999.99

The City of Colorado Springs Chief of Staff: Changes up to \$499,999.99

The Mayor of the City of Colorado Springs: Unlimited

## **12. ASSIGNMENT**

No assignment or transfer by the Contractor of this Contract or any part thereof or of the funds to be received thereunder by the Contractor will be recognized unless such assignment has had the prior written approval of the City and the surety has been given due notice of such assignment. Such written approval by the City shall not relieve the Contractor of the obligations under the terms of this Contract. In addition to the usual recitals in assignment contracts, the following language must be included in the assignment:

It is agreed that the funds to be paid to the assignee under this assignment are subject to a prior lien for services rendered or materials supplied for the performance of the work called for in said contract in favor of all persons, firms, or corporations rendering such services or supplying such materials.

### **13. CHOICE OF LAW**

This Contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that the place of performance for this Contract is deemed to be in the City of Colorado Springs, El Paso County, State of Colorado. The Contractor shall ensure that the Contractor and the Contractor's employees, agents, officers and subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or hereafter amended.

### **14. WORKERS' COMPENSATION INSURANCE**

Contractor shall take out and maintain during the Period of Performance, Colorado Worker's Compensation Insurance for the Contractor and all employees of the Contractor. If any service is sublet by the Contractor, the Contractor shall require the subcontractor to provide the same coverage for the subcontractor and subcontractor's employees. Workers' Compensation Insurance shall include occupational disease provisions covering any obligations of the Contractor in accord with the provisions of the Workers' Compensation Act of Colorado.

### **15. INDEMNIFICATION**

The Consultant shall indemnify and hold harmless the City, its enterprise(s), associated and/or affiliated entities, successors, or assigns, its elected officials, officers, employees, agents, and volunteers from and against all liabilities, claims, actions, damages, losses, and expenses, including without limitation reasonable attorneys' fees and costs, arising out of or resulting in any way from the performance of professional services for the City under this Contract and caused by any willful or negligent error, omission, or act of or a failure to observe any applicable standard of care by the Consultant or any person employed by it or anyone for whose acts the Consultant is legally liable. The Consultant hereby irrevocably waives and excuses City and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute. In consideration of the award of this Contract, to the extent damages are covered by insurance, the Consultant agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Consultant for the City. The indemnification obligation shall survive the expiration or termination of this Contract

### **16. INDEPENDENT CONTRACTOR**

In the performance of the Contractor's obligations under this Contract, it is understood, acknowledged and agreed between the parties that the Contractor is at all times acting and performing as an independent contractor, and the City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Contractor's obligations under this Contract, except as otherwise stated within the Contract terms. The City shall not provide any direction to the Contractor on the work necessary to complete the project. Contractor understands that it is an independent contractor

responsible for knowing how to perform all work or tasks necessary to complete project. The Contractor understands and agrees that the Contractor and the Contractor's employees, agents, servants, or other personnel are not City employees. The Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of the Contractor's employees, agents, servants or other personnel performing services or work under this Contract, whether it is of a direct or indirect nature. Further in that regard, it is expressly understood and agreed that for such purposes neither the Contractor nor the Contractor's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

## **17. APPLICABLE LAW AND LICENSES**

In the conduct of the services or work contemplated in this Contract, the Contractor shall ensure that the Contractor and all subcontractors comply with all applicable state, federal and City and local law, rules and regulations, technical standards or specifications. The Contractor shall qualify for and obtain any required licenses prior to commencement of work.

## **18. PRIOR AGREEMENTS**

This is a completely integrated Contract and contains the entire agreement between the parties. Any prior written or oral agreements or representations regarding this Contract shall be of no effect and shall not be binding on the City. This Contract may only be amended in writing, and executed by duly authorized representatives of the parties hereto.

## **19. INTELLECTUAL PROPERTY**

The Parties hereby agree, and acknowledge, that all products, items writings, designs, models, examples, or other work product of the Contractor produced pursuant to this Contract are works made for hire, and that the City owns, has, and possesses any and all ownership rights and interests to any work products of the Contractor made under this Contract, including any and all copyright, trademark, or patent rights, and that compensation to the Contractor for Agreement and acknowledgment of this intellectual property right section of this Contract is included in any compensation or price whatsoever paid to the Contractor under this Contract. It is the intent of the parties that the City shall have full ownership and control of the Contractor's work products produced pursuant to this Contract, and the Contractor specifically waives and assigns to the City all rights which Contractor may have under the 1990 Visual Artists Rights Act, federal, and state law, as now written or later amended or provided. In the event any products, items writings, designs, models, examples, or other work product produced pursuant to this Contract is deemed by a court of competent jurisdiction not to be a work for hire under federal copyright laws, this intellectual property rights provision shall act as an irrevocable assignment to the City by the Contractor of any and all copyrights, trademark rights, or patent rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, including all rights in perpetuity. Under this irrevocable assignment, the Contractor hereby assigns to the City the sole and exclusive right, title, and interest in and to the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, without further consideration, and agrees to assist the City in registering and from time to time enforcing all copyrights and other rights and protections relating to the Contractor's products, items writings, designs, models, examples,

or other work product in any and all countries. It is the Contractor's specific intent to assign all right, title, and interest whatsoever in any and all copyright rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, in any media and for any purpose, including all rights of renewal and extension, to the City. To that end, the Contractor agrees to execute and deliver all necessary documents requested by the City in connection therewith and appoints the City as Contractor's agent and attorney-in-fact to act for and in Contractor's behalf and stead to execute, register, and file any such applications, and to do all other lawfully permitted acts to further the registration, prosecution, issuance, renewals, and extensions of copyrights or other protections with the same legal force and effect as if executed by the Contractor; further, the parties expressly agree that the provisions of this intellectual property rights section shall be binding upon the parties and their heirs, legal representatives, successors, and assigns.

## **20. WAIVERS**

No waiver of default by the City of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the Contractor shall be construed, or shall operate, as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by the Contractor.

## **21. THIRD PARTIES**

It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person or entity on such Contract. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Contract, receiving services or benefits under this Contract shall be deemed to be incidental beneficiaries only.

## **22. TERMINATION**

### **A. Termination for Convenience.**

By signing this Contract, Contractor represents that it is a sophisticated business and enters into the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that the City may terminate this Contract at any time for convenience of the City, upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that the City shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that the City shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from the City. The City shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of this notice the Contractor shall immediately: discontinue all



services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

B. Termination for Cause: The occurrence of any one or more of the following events (“Event of Default”) will justify termination for cause:

- i. Contractor’s failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.
- ii. Contractor’s disregard of the laws or regulations of any public body having jurisdiction.
- iii. Contractor’s disregard of the authority of Project Manager.
- iv. Contractor’s violation in any material provision of the Contract Documents.
- v. Contractor’s failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any all of their employees, officers, servants, members, and agents.
- vi. Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.
- vii. A custodian, receiver, trustee or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor’s interest in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.
- viii. Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period of time after written notice.

If one or more of the events identified in Paragraphs i-viii above occur, City may give Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will provide Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager within ten (10) days after the date of the

written notice or such plan is unacceptable to the City, the City may, give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, City may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, equipment, and machinery at the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which City has paid Contractor but which are stored elsewhere, and finish the work as City may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event City terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor shall pay City for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph City shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the City. Neither the City nor any officer, agent or employee of the City shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid.

Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by City will not release Contractor from liability.

C. Termination Notice. Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

D. Removal of Equipment. Except as provided above, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the City, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the City, failing which the City shall have the right to remove such equipment and supplies at the expense of the Contractor.

## **23. BOOKS OF ACCOUNT AND AUDITING**

The Contractor shall make available to the City if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The City's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. The Contractor agrees that it will keep and preserve for at least seven years all documents related to the Contract which are routinely prepared, collected or compiled by the Contractor during the performance of this Contract.

The City's Auditor and the Auditor's authorized representatives shall have the right at any time to audit all of the related documentation. The Contractor shall make all documentation

available for examination at the Auditor's request at either the Auditor's or Contractor's offices, and without expense to the City.

## **24. ILLEGAL ALIENS**

Illegal Aliens - Public Contracts for Services - Compliance with Title 8, Article 17.5, Colorado Revised Statutes: The Contractor acknowledges, understands, agrees, and certifies that: In the performance of any work or the provision of any services by the Contractor under this Contract, the Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; or enter into a contract with any subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or under the subcontract to this Contract. The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract for services knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, and terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the Contract with the subcontractor if during the three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with any request by the City, federal government, or the Colorado Department of Labor and Employment made in the course of an investigation. If the Contractor violates or fails to comply with any provision of C.R.S. 8-17.5-101 et seq, the City may terminate this Contract for breach of contract. If this Contract is so terminated, the Contractor shall be liable for any actual and consequential damages to the City.

## **25. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986**

Contractor certifies that Contractor has complied with the United States Immigration Reform and Control Act of 1986. All persons employed by Contractor for performance of this Contract have completed and signed Form I-9 verifying their identities and authorization for employment.

## **26. LABOR**

The Contractor shall employ only competent and skilled workmen and foremen in the conduct of work on this Contract. The Contractor shall at all times enforce strict discipline and good order among Contractor's employees. The Project Manager shall have the authority to order the removal from the work of any person, including Contractor's or any subcontractor's employees, who refuses or neglects to observe any of the provisions of

these Plans or Specifications, or who is incompetent, abusive, threatening, or disorderly in conduct and any such person shall not again be employed on the Project.

In no event shall the City be responsible for overtime pay.

## **27. GRATUITIES**

- A. This Contract may be terminated if the Mayor, the Mayor's designee, and/or the Procurement Services Manager determine, in their sole discretion, that the Contractor or any officer, employee, agent, or other representative whatsoever, of the Contractor offered or gave a gift or hospitality to a City officer, employee, agent or Contractor for the purpose of influencing any decision to grant a City contract or to obtain favorable treatment under any City contract.
- B. The terms "hospitality" and "gift" include, but are not limited to, any payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given or offered, including but not limited to food, lodging, transportation, recreation or entertainment, token or award.
- C. Contract termination under this provision shall constitute a breach of contract by the Contractor, and the Contractor shall be liable to the City for all costs of reletting the contract or completion of the project. Further, if the Contractor is terminated under this provision, or violates this provision but is not terminated, the Contractor shall be subject to debarment under the City's Procurement Regulations. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## **28. NON-DISCRIMINATION**

- A. In accord with section 24-34-402, C.R.S., the Contractor will not discriminate against any employee or applicant for employment because of disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. But, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to take into consideration disability if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job, and the disability has a significant impact on the job. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship.
- B. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- C. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry.

- D. Contractor will cooperate with the City in using Contractor's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts or work under this Contract.

## **29. ORDER OF PRECEDENCE**

Any inconsistency in this Contract shall be resolved by giving precedence in the following order:

- A. This Contract document with its terms and conditions
- B. The Statement of Work
- C. Other Appendices, Attachments, Exhibits, or Schedules

## **30. HEADINGS**

The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

## **31. DISPUTES**

- A. All administrative and contractual disputes arising from or related to this Contract shall be addressed in the following manner:
  - i. If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute not addressed in the Unanticipated Circumstances provisions, such Party shall promptly give the other Party written notice of said dispute.
  - ii. The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
  - iii. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
  - iv. The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
  - v. The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of Colorado.
  - vi. Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the City. For purposes of this Contract, termination for convenience shall not be deemed a dispute. The City of Colorado Springs and the Contractor agree to notify each

other in a timely manner of any claim, dispute, or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, the City of Colorado Springs and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by the Colorado District Court for El Paso County, CO.

### **32. DELIVERY**

The City may cancel this Contract or any portion thereof if delivery is not made when and as specified, time being of the essence in this Contract. Contractor shall pay the City for any loss or damage sustained by the City because of failure to perform in accordance with this Contract.

### **33. PAYMENTS**

All invoices shall be sent to the Project Manager identified in this Contract.

The City will pay the Contractor, upon submission of proper invoices, the prices stipulated in the Contract for services rendered and accepted, less any deductions provided in this Contract within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.

Each invoice must contain at least the following information:

Contract number, issued purchase order number, invoice number, invoice date, timeframe covered by invoice, type and amount of labor and materials used for that time period, dollar amount in unit price, extended price, and total value of invoice.

The City will make payments for services on a monthly basis for services performed during the previous month in accordance with this Contract. All labor Invoices shall include labor categories, rates, hours worked, and total amounts per category. All labor categories and rates charged must be included in this Contract. No other categories or rates will be allowed or payable. All labor invoices are subject to City approval.

Materials will be payable on a reimbursable basis with no additional profit, fee, overhead, handling, or General and Administrative (G&A) costs. All costs for materials shall be approved by the City Contracts Specialist before the costs are incurred and payable.

The City will pay the Contractor, upon submission of proper invoices, the prices stipulated in the Contract for services rendered and accepted, less any deductions provided in this Contract within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.

### **34. INSPECTION OF SERVICES**

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the services furnished under this Contract conform to Contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any City inspection and testing

required in the Contract's specifications, except for specialized inspections or tests specified to be performed solely by the City.

- A. Definition of "services", as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City during Contract performance and for as long afterwards as the Contract requires.
- C. The City has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City will perform inspections and tests in a manner that will not unduly delay the work.
- D. If the City performs inspections or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

### **35. SECURITY**

The City maintains security requirements regarding access to City buildings and other City workplaces and worksites on City property. All Contractor personnel accessing City buildings, workplaces, or worksites, may be required to produce a valid, Government issued picture identification. Contractor personnel lacking such identification may not be allowed access to such sites. No costs incurred by the Contractor due to City security requirements shall be allowable or payable under this Contract.

### **36. TIME IS OF THE ESSENCE**

In as much as the Contract concerns a needed or required service, the terms, conditions, and provisions of the Contract relating to the time of performance and completion of work are of the essence of this Contract. The Contractor shall begin work on the day specified and shall prosecute the work diligently so as to assure completion of the work within the number of calendar days or date specified, or the date to which the time for completion may have been extended.

### **37. EMPLOYMENT OF LABOR**

The Contractor shall comply with, and defend and hold the City harmless from any violation of all laws and lawful rules and regulations, both of the State of Colorado and of the United States, relating to Workmen's Compensation, unemployment compensation, Social Security, payment for overtime, and all other expenses and conditions of employment under this Contract.

### **38. SALES TAX**

The Contractor must have a tax-exemption certificate from the Colorado Department of Revenue for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable. The tax exempt project number and the exemption

certificate only applies to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. Such purchases and rentals are subject to full applicable taxation.

All contracts with subcontractors must include the City of Colorado Springs Sales and Use Tax on the work covered by the Contract, and other taxes as applicable.

Note: For all equipment, materials and supplies incorporated into the work purchased from vendors or suppliers not licensed to collect City Sales Tax (i.e. out of state suppliers, etc.), City Use Tax is due and payable to the City. The Contractor shall execute and deliver, and shall cause the Contractor's subcontractors to execute and deliver to the City Sales Tax Office, ST 16 forms listing all said equipment, materials and supplies and the corresponding use tax due, along with payment for said taxes. Any outstanding taxes due may be withheld from the final payment due the Contractor and may result in suspension of Contractor from bidding on City projects.

Forms and instructions can be downloaded at <https://coloradosprings.gov/sales-tax/page/additional-sales-tax-forms?mld=30771> Questions can be directed to the City Sales Tax Division at (719) 385-5903.

Our Registration Numbers are as follows:  
City of Colorado Springs  
Federal I.D.: 84-6000573  
Federal Excise: A-138557  
State Sales Tax: 98-03479

The Contractor's payment or exemption of State of Colorado, El Paso County and City Sales and Use Taxes shall be as specified herein.

### **39. SEVERABILITY**

If any terms, conditions, or provisions of this Contract shall be held unconstitutional, illegal, or void, such finding shall not affect any other terms, conditions, or provisions of this Contract.

### **40. LIABILITY OF CITY EMPLOYEES**

All authorized representatives of the City are acting solely as agents and representatives of the City when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of the City.

### **41. USE OF CITY NAME OR LOGO**

Except as otherwise provided in this Contract, the Contractor shall not refer to this Contract or the City of Colorado Springs in any advertising or promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the City of



Colorado Springs, its employees, or its Departments, or is considered by these entities to be superior to other products or services. Any use of the name or logo of the City of Colorado Springs in advertising or promotions must be approved in writing by the City of Colorado Springs Contracts Specialist assigned to the Contract prior to such use.

#### **42. TRAVEL**

If travel expenses are included as a line item in this Contract, all travel expenses incurred and billable by the Contractor are subject to City approval. Air travel shall be limited to the round trip "economy coach" fare. Travel from the Colorado Springs Airport is encouraged. Unless there are extenuating circumstances, the Contractor should take advantage of lower airfares by purchasing tickets more than 14 days in advance of travel. In-state travel by air must be more economical than travel by private vehicle. Use of a private vehicle may be reimbursed per mile at the current rate published by the IRS annually. Short-term parking, long-term parking or cab fare associated with airport departure and arrival may be allowable expenses. Valet parking will not be allowed unless it is the least expensive or only option. Car rental rates may be reimbursed for car rentals no greater than the intermediate or standard classification. The City will not reimburse any other travel methods or expenses. The City will pay for lodging, meals, and miscellaneous expenses on a per diem basis only, in accordance with the current per diem rates published by the IRS annually. The City will not pay for Contractor expenses exceeding the per diem rates. Receipts for all reimbursable expenses must be provided with the Contractor's invoice.

#### **43. ELECTRONIC SIGNATURES**

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence and (iii) enforceable in accordance with its terms.

#### **44. APPENDICES**

The following Appendices are made a part of this Agreement:

1. Appendix A – Additional Terms and Conditions
2. Appendix B – Contractor's Proposal
3. Appendix C – Statement of Work
4. Appendix D – Insurance Requirements
5. Appendix E – Federal Clauses

## CONTRACT SIGNATURE PAGE

The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed.

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed on the day and the year first above written.

This Contract is executed in one (1) original copy.

**THE CITY OF COLORADO SPRINGS,  
COLORADO:**

**SECOND PARTY:**

**SAMPLE CONTRACT ONLY**

Corporate Name

DO NOT SIGN

Signature

Date

Title

### EXHIBIT 3 EXCEPTIONS

Print the words "no exceptions"(here)\_\_\_\_\_ if there are no exceptions taken to any of the terms, conditions, or specifications of these proposal documents or contract.

If there are exceptions taken to any of the terms, conditions, or specifications of the proposal document or contract, they must be clearly stated on a separate sheet of paper attached to this sheet and returned with your proposal.

**Note:** All potential Offerors are hereby advised that exceptions taken may be considered during the evaluation phase which may affect the final scoring of proposals. Offerors stipulating that the City must use their contract or agreement may be determined non-responsive and their Proposal determined unacceptable.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
(City, State and Zip Code)

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Return this form with your Proposal.

#### EXHIBIT 4 MINIMUM INSURANCE REQUIREMENTS

The following listed minimum insurance requirements shall be carried by all contractors and consultants unless otherwise specified in the City's solicitation package, Special Provisions or Standard Specifications.

1.   X   Commercial General Liability for limits not less than \$2,000,000 combined single limit  
\_\_\_\_\_ for bodily injury and  
\_\_\_\_\_ property damage for each occurrence. Coverage shall include:
  - a. Premises and Operations
  - b. Personal/Advertising Injury
  - c. Products/Completed Operations
  - d. Liability assumed under an Insured Contract (including defense costs assumed under contract)
2.   X   Workers' Compensation and Employers Liability as required by statute. Employers  
\_\_\_\_\_ Liability  
\_\_\_\_\_ coverage is to be carried for a minimum limit of \$100,000.
3.   X   Automobile Liability covering any auto (including owned, hired, and non-owned autos)  
\_\_\_\_\_ with a minimum  
\_\_\_\_\_ of \$1,000,000 each accident combined single limit.
6.   X   Professional Liability Insurance covering any damages caused by an error, omission or  
\_\_\_\_\_ any negligent  
\_\_\_\_\_ acts with limits of not less than \$2,000,000 per occurrence and in the aggregate.
  - a. In the event that any professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.
  - b. Policy shall contain a waiver of subrogation against the CITY.

Except for workers' compensation and employer's liability insurance and Professional Liability, the **City of Colorado Springs must be named as an additional insured**. Certificates of Insurance must be submitted before commencing the work and provide 30 days' notice prior to any cancellation, non-renewal, or material changes to policies required under the contract.

All coverage furnished by contractor is primary, and any insurance held by the City of Colorado Springs is excess and non-contributory.

The undersigned certifies and agrees to carry and maintain the insurance requirements indicated above throughout the contract Period of Performance.

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_

## **EXHIBIT 5 STATEMENT OF WORK**

### **US HWY 24 AND PETERSON BOULEVARD INTERCHANGE DESIGN PLANNING**

#### **5.1 GENERAL DESCRIPTION**

The City of Colorado Springs Public Works Department acting as project lead on behalf of the Pikes Peak Area Council of Governments (PPACG), El Paso County Department of Public Works, and the Colorado Department of Transportation (collectively the 'Working Group'); is seeking professional engineering and environment clearance services for the preliminary design of the US Hwy 24 and Peterson Road/Boulevard Interchange Design Planning Project. The Project is being funded through a federal grant from the Office of Local Defense Community Cooperation (OLDCC) and local match contributions from the PPACG and the City of Colorado Springs (City).

The City is not a recipient of grant funds but will assist PPACG staff by managing the Consultant contract, reviewing work products produced by the Consultant, and coordinating with the Working Group and other affected stakeholders.

#### **5.2 BACKGROUND INFORMATION**

In October 2015, PPACG was awarded a grant from the Office of Local Defense Community Cooperation (formerly known as Department of Defense, Office of Economic Adjustment), and the Colorado Department of Local Affairs to conduct a regional Joint Land Use Study (JLUS). A JLUS is a collaborative effort among active military installations and surrounding communities to address compatibility issues with the goal of balancing military and community interests. The two primary objectives of the JLUS process were to: Encourage cooperative land use planning between military installations and surrounding communities so growth and development are compatible with the training and/or operational missions of the installations; and seek ways to reduce operational impacts on installations, land, and communities adjacent to installations.

The Colorado Springs Regional JLUS examined impacts of existing and future land uses and the missions of the five military installations in the Pikes Peak region: the Air Force Academy, Fort Carson, Peterson Air Force Base (including Cheyenne Mountain Air Force Station), and Schriever Air Force Base. The study was completed in December of 2018 and the final report was released in April of 2019.

Following detailed profiles of the military installations and the adjacent jurisdictions, the JLUS concluded with a comprehensive list of Implementation Strategies presented in Chapter 10 of the report. The recommended strategies and actions considered the unique operations and associated impacts of each installation in the region. Sub-section 2.4 contains strategies to 'Address Transportation Needs around Installations'. The US Hwy 24 and Peterson Boulevard Interchange Design Planning Project is a direct result of the recommendations of the JLUS as they pertain to Peterson Air Force Base which is now known as Peterson Space Force Base (SFB). To complement the interchange,

PSFB is developing a separate project to improve the north entrance gate to PSFB. The interchange design will have to be coordinated with PSFB gate redevelopment project.

The Colorado Springs Regional JLUS used a concept proposal for the interchange prepared on behalf of the Peterson Gateway Metropolitan District. The Peterson Gateway District Brochure entitled 'Gateway to Peterson' illustrates an interchange concept consisting of roundabouts at the exit/entrance ramps from Peterson Blvd accessing onto US Hwy 24. Roundabout control at the intersections has not been accepted as the final concept for the interchange, but the roundabout concept and the brochure have been widely used to describe and to garner additional support for the project.

In June 2021, PPACG was awarded a federal grant from the Department of Defense, Office of Local Defense Community Corporation (OLDCC) for preliminary engineering and environmental clearance (NEPA) work for the US Hwy 24 and Peterson Blvd interchange. Several jurisdictions intersect in proximity to the interchange, and it is anticipated the City will take over ownership, operation and maintenance efforts on the local streets and will be the lead agency. Coordination with CDOT on ramp reconfiguration will be necessary.

### **5.3 PROJECT GENERAL OBJECTIVES**

The objective of the US Hwy 24 and Peterson Boulevard Design Planning Project is to address the implementation strategies presented in the Colorado Springs Regional Joint Land Use Study. Specifically, the Project will provide preliminary design and environmental clearance required to reconstruct the US 24 / Peterson Boulevard interchange to provide a safer, more secure, and more efficient transition to the Peterson SFB North Gate. The Project will support Peterson SFB access control in day to day and emergency operations, account for increased traffic capacity on the adjacent roadways associated with planned growth in the Pikes Peak region and will consider complete transportation options within the adjacent corridors to include bus and bicycle lanes, sidewalks, and trails.

### **5.4 PROJECT GENERAL SCOPE**

To accomplish the objectives of this project, the Consultant's Scope of Work must, at a minimum, address the following:

#### **A. ENVIRONMENTAL CLEARANCE (NEPA)**

The National Environmental Policy Act of 1969 (NEPA) and the Regulations for Implementing the Procedural Provisions of NEPA direct Federal agencies to consider the environmental impacts of proposed major Federal actions. OLDCC does not have their own implementing procedures, but commonly accepts the procedures of partnering Federal agencies. The Federal Highway Administration, though not a part of this Project, has a Programmatic Agreement with CDOT regarding the processing of actions determined to be categorical exclusions. It is anticipated the Project will qualify for a programmatic categorical exclusion (CatEx) (Programs C26 and C27) and, per the agreement with FHWA, CDOT will administer the CatEx following their

defined process. CDOT will document resource clearance actions on their Form 128 and approve the NEPA clearance for the Project. CDOT's NEPA certification will then be adopted by OLDCC to satisfy the NEPA directive to the participating federal agency. If CDOT is unable to determine the project qualifies as a CatEx, PPACG (Grantee) will need to comply with NEPA through development and documentation of an Environmental Analysis. Any required additional environmental analysis, permitting, or mitigation is the responsibility of PPACG and will be coordinated with OLDCC.

The selected Consultant is to conduct an environmental investigation as required to support the environmental clearance action in accordance with CDOT standard processes. The Consultant is to review existing environmental reports, available databases, and field conditions; conduct field surveys and sampling, and provide report(s) on the findings of the investigation. The Consultant is to coordinate environmental investigation and analysis results directly with CDOT and will also include and copy the Project Manager, and the OLDCC Project Manager and NEPA Coordinator.

The package assembled to document the NEPA clearance action, subject to CDOT standards and process, will include reports for alternatives analysis, geotechnical engineering, drainage, and subsurface utility engineering. In addition, all environmental permits must be complete and listed in the NEPA documentation. The language of the NEPA documentation should reflect project design and construction work, not just planning/design and alternatives review.

## **B. ALTERNATIVES ANALYSIS / CONCEPTUAL DESIGN**

The selected Consultant is to review, evaluate, and utilize to the maximum extent possible, relevant Governmental Master Plans, Small Area Plans, Development Master Plans, Drainage Basin Planning Studies, and development related drainage, survey, traffic, and geotechnical reports that are available and on file with the City of Colorado Springs, El Paso County, and the Colorado Department of Transportation. A list of known documents is provided in Exhibit 1. Two independently prepared concept proposals are also included as Exhibit 2 and Exhibit 3.

The selected Consultant is then to prepare an analysis of interchange design alternatives with a recommendation for a preferred alternative. The alternatives analysis will be reviewed by the Working Group and relevant stakeholders for concurrence before advancing to the preliminary engineering phase.

## **C. PRELIMINARY ENGINEERING**

The selected Consultant is to provide preliminary engineering and design for the future roadway interchange at US Hwy 24 and Peterson Boulevard. At a minimum, the preliminary design is expected to include the plan sheets and design elements highlighted in the construction document development goals for the 30% design phase as presented in Table 9.2 in the City of Colorado Springs Program Management Plan. The available budget and estimated construction costs will then guide the scope for the advanced design and final engineering efforts. The design shall meet the requirements of the City of Colorado Springs Engineering Criteria Manuals.

#### **D. SURVEY**

The selected Consultant is to provide survey services necessary to support preliminary engineering design and right of way mapping. Survey services shall generally include topographic surveys, plat and title research, mapping and CAD Services, and survey control based on GIS Mapping and Facilities Information Mapping Systems (FIMS). Survey control may be required to be transformed to additional coordinate systems for the use and information of additional agencies such as CDOT, Peterson SFP, or El Paso County. Survey services shall follow the guidance of the CDOT Survey Manual.

#### **E. DRAINAGE REPORT**

The selected Consultant is to review existing drainage basin planning studies, existing development reports, and drainage patterns and provide analysis and preliminary design for stormwater drainage networks and stormwater quality management. Supplemental drainage analysis shall be provided as needed. Stormwater design criteria, standards and details shall meet the requirements of the City of Colorado Springs Drainage Criteria Manuals, Engineering Criteria Manuals, and Stormwater Construction Manual.

#### **F. GEOTECHNICAL**

The selected Consultant is to provide preliminary geotechnical investigation and reporting for the project area to support the preliminary engineering. The Consultant is to review existing geotechnical reports available from the City of Colorado Springs, El Paso County, or the Colorado Department of Transportation; and provide supplement field investigations as needed. The field investigation, geotechnical report, and pavement design shall meet the requirements of the City of Colorado Springs Engineering Criteria Manuals.

#### **G. SUBSURFACE UTILITY ENGINEERING**

The selected Consultant is to provide a subsurface utility engineering (SUE) investigation and report to support the preliminary design. It is anticipated that the preliminary SUE report will include QL D data on all utilities and QL B and QL A data as needed to identify conflicts. The Consultant is to provide cost estimates of any additional work required to complete the SUE report in a subsequent design phase. Cost estimates for known conflicts are to be included in the engineer's opinion of probable construction costs.

#### **H. TRANSPORTATION IMPACT STUDY**

The selected Consultant is to provide a traffic impact study (TIS). The Consultant is to review existing traffic studies and models and collect supplemental field traffic counts to estimate traffic volumes necessary to support to preliminary design. The TIS is expected to provide evaluation and recommendations for roadway geometry, roadway cross-sections, transitions, and multimodal facilities. The TIS shall meet the requirements of the City of Colorado Springs Engineering Criteria Manuals.



## **I. PUBLIC INVOLVEMENT**

The selected Consultant will be required to develop and participate in a Public Involvement / Information process. This will require contact, coordination and/or presentations to adjoining property owners, community groups, stakeholders, and the public. It is anticipated that both in-person and virtual, online contact will be required. Other public information efforts (i.e., postcards, flyers, website content, email distributions to stakeholders, media drafts, etc.) will be necessary to keep all interested parties updated on the progress of the project and to obtain input.

The Consultant is to develop a key stakeholder list to include, but is not limited to PPACG, Peterson SFB, CDOT, El Paso County, and the City. The Consultant is to organize a select committee of key stakeholders to facilitate all media coordination and news releases as may be necessary throughout this project.

## **J. RIGHT-OF-WAY AND EASEMENT ACQUISITION PLANNING**

The selected Consultant is to verify ownership of properties and recorded easements, obtain title commitments for affected parcels, and research land records. Based on the preliminary design plans, the selected Consultant is to prepare a preliminary set of right-of-way (ROW) plans showing jurisdictional boundaries (Federal, CDOT, EPC, COS) proposed encroachments onto adjacent properties as a result of the preliminary design and/or utility relocations. Plans are to be prepared in general conformance with the requirements of CDOT's ROW Manual.

## **K. OPINION OF PROBABLE CONSTRUCTION COST**

The Consultant is to prepare a Class 3 Opinion of Probable Construction Cost (OPCC) in accordance with American Association of Cost Estimators (AACE) Guidelines. The Consultant will develop quantity surveys from preliminary engineering plans and, where insufficient information is developed, the Consultant will use engineering judgement to complete the OPCC. The OPCC is to be prepared in an Excel Spreadsheet format using CDOT Item Numbers and Line Item Descriptions. Pricing data is to be based on relevant CDOT Cost Data Indices that represent the scope and scale of the line item.

## **5.5 OPTIONAL PROJECT PHASES AND TASKS**

The need for additional services will be determined as the design and construction of the Project progresses. If it is determined that additional services are required, a separate statement of work will be provided to the Consultant at the appropriate phase and handled as a contract amendment. The City reserves the right to complete the work in-house or to contract all or portions of the additional engineering/professional services to a separate vendor(s). Additional services may include, but are not limited to:

- Future grant application preparation
- In the event CDOT and OLDCC determine that a CatEx is not appropriate, additional environmental services may be required for the project to comply with NEPA by developing an Environmental Assessment.
- Advanced Engineering Phase(s)

- After the Preliminary Engineering Phase, the City will determine the extent of the work to be released for advanced and final engineering. Additional work may include:
  - Utility coordination and conflict resolution for surface and subsurface facilities.
  - Lighting plans
  - Landscaping plans
- Final ROW Plan preparation including preparation of legal descriptions and exhibits.
- Real Estate Acquisition Services.
- Final Engineering Phase resulting in 'For Construction' Engineering Documents
- Construction Phase Engineering Services
  - After the Final Engineering Phase, the City will determine the extent of the work to be released to the construction phase of the project.
- Construction Management Services

## 5.6 DELIVERABLES

Upon completion of the tasks, the Consultant shall provide comprehensive submittals containing the documents identified below. Unless otherwise specified, the Consultant shall provide one (1) hard copy and five (5) electronic copies on USB drive of each deliverable to the City of Colorado Springs. Electronic copies will be redistributed to stakeholders by the City.

A disclaimer statement will appear on the title page of any study prepared under this Grant. It will read: *"This study was prepared under contract with the City of Colorado Springs with financial support from the Office of Local Defense Community Cooperation, Department of Defense. The content reflects the views of the City of Colorado Springs and does not necessarily reflect the views of the Office of Local Defense Community Cooperation."* The contractor identification will appear on the title page of any study funded by this grant. Any final study shall be submitted electronically. The document will be dated the month and year that it is submitted to the Grantor.

- Alternatives Analysis / Conceptual Designs of alternatives with conceptual cost estimates.
- 30% Engineering Plan and Profile (See City of Colorado Springs PMP, Table 9.2)
- Class 3 Engineer's Opinion of Probable Construction Costs.
- Preliminary Drainage Report (requires separate fee and submittal to SWENT via Projectdiox Platform along with relevant plan sheet extracts)
- Preliminary Right of Way Plans.
- NEPA Process environmental review documentation in support of CDOT's Categorical Exclusion approval and certification.
- Preliminary Geotechnical Report
- Traffic Impact Analysis
- SUE Report
- Summary of Public Information Process and all exhibits or displays
- CADD files
- If requested by the City, the Consultant shall deliver all collected and created GIS data associated with any task. Geospatial data should, for example, encompass the relevant study area and be in either ESRI File Geodatabase format (\*.gdb) or

ESRI Shapefile format (\*.shp). Regardless of the geospatial data format, all geospatial data should include metadata in either the ISO 19139 Metadata Implementation Specification style or the SDSFIE-M style. Metadata records for each dataset should include the minimum required information per metadata style written within the organization's preferred metadata editor software; e.g., ESRI's ArcCatalog.

- If requested by the City, a memorandum summarizing the work completed and describing the subsequent actions required to advance the construction documents to the 'bid-ready' status.

## EXHIBIT 5.1 LIST OF KNOWN DOCUMENTS

List of known engineering criteria documents:

- City of Colorado Springs Engineering Criteria Manuals
- City of Colorado Springs Drainage Criteria Manuals, Volumes 1 & 2
- CDOT Standard Specifications for Road and Bridge Construction
- CDOT M&S Standard Drawings
- Pikes Peak Regional Asphalt Specifications

List of other known criteria manuals:

- CDOT ROW Manual
- City of Colorado Springs Real Estate Manual
- City of Colorado Springs Stormwater Construction Manual

List of known planning documents:

- Gateway to Peterson Roundabout & Access Improvements Concept Proposal
- Preliminary PAFB / Highway 24 Interchange Concept, *Kimley Horn and Assoc.*
- Colorado Springs Regional Joint Land Use Study (JLUS) (2018)
- US 24 Planning and Environmental Linkage (PEL) Study (2018)
- US 24 Access Control Plan (2006)
- El Paso County Major Transportation Corridor Plan (2016)
- City of Colorado Springs Park System Master Plan (2014)

List of known Drainage Basin Planning Studies:

- Sand Creek DBPS

List of known Land Use Master Plans:

- Plan COS, City of Colorado Springs (2019)
- ConnectCOS, City of Colorado Springs (2021 Draft)
- El Paso County Master Plan (2021)
- Airport Master Plan (2013)

List of known districts:

- Cherokee MD
- Peterson Gateway MD

GIS Data:

- The selected Consultant may obtain relevant GIS data from the City of Colorado Springs and/or El Paso County subject to the license agreement, terms, and conditions of each jurisdiction.

## EXHIBIT 5.2 PETERSON GATEWAY DISTRICT BROCHURE

*{remainder of page intentionally left blank}*

## **EXHIBIT 5.3 PRELIMINARY PAFB / HIGHWAY 24 INTERCHANGE CONCEPT**

As prepared by Kimley-Horn, May 2020

*{remainder of page intentionally left blank}*

## EXHIBIT 6 QUALIFICATION STATEMENT

### CITY OF COLORADO SPRINGS QUALIFICATION STATEMENT

This statement will provide information which will enable the City to evaluate the qualifications of your firm and staff with regard to the requirements of this Request for Proposal. Please complete this form in its entirety and submit it (in the number of copies requested) along with the other required proposal documents. If a request in the Qualification Statement is contained in the proposal, indicate the section in the proposal where that information can be found.

**(PRINT)**

FIRM

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY STATE \_\_\_\_\_

ZIP: \_\_\_\_\_

AUTHORIZED

REPRESENTATIVE: \_\_\_\_\_

TITLE: \_\_\_\_\_

AUTHORIZED

SIGNATURE: \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL

ADDRESS: \_\_\_\_\_

**1. TYPE OF BUSINESS**

**2. TYPE OF LICENSE & LOCATION**

CORPORATIO  
N

☐

INDIVIDUAL

☐

PARTNERSHIP

☐

JOINT  
VENTURE

☐

OTHER: \_\_\_\_\_

**3. TYPE OF SERVICE TO BE PROVIDED FOR**

RFP: \_\_\_\_\_

**4. NUMBER OF YEARS IN**

BUSINESS: \_\_\_\_\_

**5. ON A SEPARATE SHEET PROVIDE A BRIEF HISTORY OF YOUR FIRM, STAFF  
SIZE**

**AND EXPERIENCE. SUBMIT A RESUME FOR THE PROJECT MANAGER AND  
EACH**

**KEY PERSONNEL ASSIGNED TO THIS PROJECT.**

**6. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED**

UNDER: \_\_\_\_\_

7. HAVE YOU OR YOUR FIRM EVER FAILED TO COMPLETE ANY WORK AWARDED TO

YOU? YES ☐ NO ☐ IF "YES", EXPLAIN:

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8. HAS ANY OFFICER OR PARTNER OF YOUR ORGANIZATION EVER BEEN AN OFFICER

OR PARTNER OF ANOTHER ORGANIZATION THAT FAILED TO COMPLETE A CONTRACT WITHIN THE LAST FIVE (5) YEARS?

YES ☐ NO ☐

IF "YES", EXPLAIN:

9. HAS YOUR FIRM OR ANY PARTNERS OR OFFICERS EVER BEEN INVOLVED IN ANY

BANKRUPTCY ACTION? YES ☐ NO ☐ IF "YES", EXPLAIN:

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10. ARE YOU PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY GOVERNMENT AGENCY? YES ☐ NO ☐ IF "YES", EXPLAIN TYPE, KIND, PLAINTIFF, DEFENDANT, ETC., AND STATE THE CURRENT STATUS:

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11. BANK  
REFERENCE:

ADDRESS:

CONTACT:

PHONE:

12. LIST THREE (3) SIMILAR PROJECTS (LOCAL OR STATE-WIDE) **FROM LAST FIVE (5)**

**YEARS**-INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBERS

NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project:

Size of Project:



	Contract Amount:
	Contact Name and Title:
	Contact Address:
	Contact telephone and FAX Numbers:
2.	Location of Project:
	Size of Project:
	Contract Amount:
	Contact Name:
	Contact Address:
	Contact telephone and FAX Numbers:
3.	Location of Project:
	Size of Project:
	Contract Amount:
	Contact Name:
	Contact Address:
	Contact telephone and FAX Numbers:

**13. LIST CURRENT SIMILAR PROJECTS (LOCAL OR STATE-WIDE) UNDER CONTRACT-**  
 INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT)  
 CONTACT NAME, ADDRESS, TELEPHONE NUMBERS.  
 NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE  
 REQUESTED IN THE RFP PACKAGE.

1.	Location of Project:
	Size of Project:
	Contract Amount:
	Contact Name and Title:
	Contact Address:
	Contact telephone and FAX Numbers:
2.	Location of Project:
	Size of Project:
	Contract Amount:
	Contact Name and Title:
	Contact Address:
	Contact telephone and FAX Numbers:
3.	Location of Project:
	Size of Project:
	Contract Amount:
	Contact Name and Title:
	Contact Address:
	Contact telephone and FAX Numbers:

**14. LIST OF SUB-CONTRACTORS TO BE USED FOR THIS PROJECT:**  
 (INCLUDE NAME, ADDRESS, TELEPHONE NUMBER, TYPE OF WORK)

1.	Name:
	Address:

	Telephone Number:	
	Type of Work:	
2.	Name:	
	Address:	
	Telephone Number:	
	Type of Work:	
3.	Name:	
	Address:	
	Telephone Number:	
	Type of Work:	

**IF ADDITIONAL INFORMATION IS PROVIDED ON A SEPARATE SHEET FOR ANY OF THE ITEMS, CLEARLY SPECIFY WHERE IT CAN BE LOCATED IN YOUR PROPOSAL PACKAGE.**

## EXHIBIT 7 SAMPLE EVALUATION SCORESHEET

RFP EVALUATION CRITERIA DESCRIPTION	SCORE
<b>1. TECHNICAL AREA</b>  The Offeror must explain its overall solution, considering the scope of work or statement of work provided. The content must include, but not necessarily be limited to, the following information.	<b>5 – Exceptional</b> <b>4 – Very Good</b> <b>3 – Satisfactory</b> <b>2 – Marginal</b> <b>1 – Unacceptable</b>
<b>A. Understanding of and compliance with technical requirements</b>	
<p>In this area, the Offeror should address each work area in sufficient detail to demonstrate a clear and full understanding of the work. The proposal should not merely parrot the requirements of the RFP. Further, the Offeror should provide evidence of sufficient planning to ensure the work is completed on schedule and within budget. The Offeror should submit their proposed key dates for major project milestones (Corridor Development, 30% Design, 60% Design, and Final Design) in tabular format. A detailed critical path project schedule is not required in the proposal. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> <li>1. Does the proposal demonstrate a firm understanding of the requirements and goals of the Statement of Work, as well as industry standards and reasonable expectations for a company in the industry?</li> <li>2. Does the proposal fully and completely address each requirement and goal of the Statement of Work?</li> <li>3. Does the proposal provide solutions to indicate that requirements and goals will be met on schedule?</li> <li>4. Does the technical solution seem realistic?</li> <li>5. Does it generally appear that the offeror knows and thoroughly understands the business and requirement?</li> </ol>	
<b>COMMENTS:</b>	
<b>B. Project Approach</b>	

<p>In this area, the Offeror should clearly present proposed solutions and indicate that it has performed adequate planning to accomplish tasks as defined in the Statement of Work. Innovations, efficiencies, and detailed specifics are all encouraged. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> <li>1. Does the proposal include a complete plan to accomplish each requirement, including subcontracting (if applicable)?</li> <li>2. Does the proposal demonstrate that appropriate and qualified personnel and equipment will be provided to carry out the requirement?</li> <li>3. Is the proper level of effort directed toward each requirement? Does the level of effort look unrealistically low or unreasonably high?</li> </ol>	<p><b>5 – Exceptional</b>  <b>4 – Very Good</b>  <b>3 – Satisfactory</b>  <b>2 – Marginal</b>  <b>1 – Unacceptable</b></p>
<b>COMMENTS:</b>	
Sum of Ratings in Technical Area (Add numbers in Section 1.A. and 1.B):	
Evaluation Factor:	<b>0.45</b>
Technical Area Evaluation Score (Multiply the sum of ratings in Technical Area by the evaluation factor):	
<p><b>2. MANAGEMENT AREA</b></p> <p>The Offeror must explain its method of managing the work to be performed. The content must include, but not necessarily be limited to, the following information.</p>	<p><b>5 – Exceptional</b>  <b>4 – Very Good</b>  <b>3 – Satisfactory</b>  <b>2 – Marginal</b>  <b>1 – Unacceptable</b></p>
<b>A. Project Management</b>	
<p>In this area, the Offeror should provide a plan of operation, to include management of personnel, workload, schedule, and budget. It should also include an organization chart which demonstrates clear and effective lines of authority, responsibility, and communication for management, supervisory, and technical personnel. The plan should address availability of the project team (including subconsultants) identified to work on this project in conjunction with their other work assignments. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> <li>1. Does the proposal address the issues above in sufficient detail to demonstrate their management capabilities?</li> <li>2. Are the people committed and available for this project, especially regarding schedule and level of effort?</li> <li>3. Does the plan indicate that the offeror will obtain, keep, and efficiently utilize high quality personnel?</li> <li>4. Does the offer address corrective actions?</li> <li>5. Does the proposal explain how the offeror will remain within schedule and</li> </ol>	

budget?	
<b>COMMENTS:</b>	
<b>B. Past Performance/Relevant Experience</b>	
<p>In this area, the Offeror should provide at least three references or contracts demonstrating that it successfully provided services/products same or similar to those required in the RFP. The proposal should adequately explain how the projects were completed on schedule and within budget. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> <li>1. Does the proposal include at least three references or past performance citations?</li> <li>2. Are the references or past performance citations relevant to the requirements of the Statement of Work of the RFP?</li> <li>3. Does the offeror explain how they were successful on the projects provided as past performance?</li> <li>4. Does the offeror apply the past performance to the City requirement in such a way as to demonstrate added value due to experience?</li> </ol>	
<b>COMMENTS:</b>	
<b>C. Key Personnel</b>	
<p>In this area, the Offeror should describe the experience of key personnel (including subconsultants) assigned to the project and how their expertise provides value to the City. More detailed resumes can be included in an Appendix (the Appendix is not counted against the page limit). It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> <li>1. Does the offeror provide complete personnel information, including education, experience, background information, accomplishments, and other pertinent information?</li> <li>2. Does the offeror provide information for all key personnel, as required by the RFP?</li> <li>3. Do the personnel assigned to the project demonstrate adequate professional, technical, and management levels to accomplish the work effectively and efficiently?</li> </ol>	
<b>COMMENTS:</b>	
Sum of Ratings in Technical Area (Add numbers in Section 2.A. thru 2.C):	
Evaluation Factor:	<b>0.35</b>

Technical Area Evaluation Score (Multiply the sum of ratings in Technical Area by the evaluation factor):	
<b>3. PROPOSAL PRESENTATION</b>  Although not a section of the proposal, presentation is an important factor. Offerors should provide a highly professional product, which is complete, accurate, easily understood, and effectively presented.	<b>5 – Exceptional</b> <b>4 – Very Good</b> <b>3 – Satisfactory</b> <b>2 – Marginal</b> <b>1 – Unacceptable</b>
<b>COMMENTS:</b>	
Sum of Ratings in Technical Area (Add numbers in Section 2.A. thru 2.C):	
Evaluation Factor:	<b>0.20</b>
Technical Area Evaluation Score (Multiply the sum of ratings in Technical Area by the evaluation factor):	
<b>4. EXCEPTIONS</b>  All Offerors must complete and return with their proposal, Exhibit 3, Exceptions Form. Some terms and conditions are not negotiable. Exceptions may be grounds for rendering the proposal unacceptable without further discussions.	
<b>COMMENTS:</b>	
<b>5. INSURANCE REQUIREMENTS</b>  All Offerors must complete and return Appendix 3, Minimum Insurance Requirements. Lack of responsiveness in this area may be grounds for rendering the proposal unacceptable without further discussions.	<b>Pass/Fail</b>
<b>TOTAL SCORE – Add Evaluation Scores from all Sections 1-3. The sum is the total score.</b>	Total Score:

## **EXHIBIT 8 – FEDERAL CLAUSES**

### **CLAUSES FOR CONTRACTS SUBJECT TO FEDERAL REQUIREMENTS**

#### **1. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor will comply with all provisions of executive order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.

The contractor will furnish all information and reports required by executive order 11246 of September 24, 1965, and by rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in executive order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in executive order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.

The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section

204 of executive order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

*Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

*Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all government contracts and subcontracts, including government bills of lading, transportation requests, contracts for deposit of government funds, and contracts for issuing and paying U.S. Savings bonds and notes, and such other contracts and subcontracts as the deputy assistant secretary may designate.

*Incorporation by operation of the order.* By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

*Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

## **2. EQUAL EMPLOYMENT OPPORTUNITY REPORTS AND OTHER REQUIRED INFORMATION**

### *(a) Requirements for prime contractors and subcontractors.*

Each prime contractor and subcontractor shall file annually, on or before the September 30, complete and accurate reports on standard form 100 (eoo-1) promulgated jointly by the office of federal contract compliance programs, the equal employment opportunity commission and plans for progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with § 60-1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to \$50,000 or more or serves as a depository of government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. Savings bonds and savings notes: *provided*, that any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.

Each person required by § 60-1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60-1.7(a)(1), or at such other intervals as the deputy assistant secretary may require. The deputy assistant secretary may extend the time for filing any report.



The deputy assistant secretary or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the deputy assistant secretary or the applicant deems necessary for the administration of the order.

Failure to file timely, complete, and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the deputy assistant secretary, an applicant, prime contractor, or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

*(b) Requirements for bidders or prospective contractors—*

*Certification of compliance with part 60-2: affirmative action programs.* Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or in writing at the outset of negotiations for the contract: (i) whether it has developed and has on file at each establishment affirmative action programs pursuant to part 60-2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; (iii) whether it has filed with the joint reporting committee, the deputy assistant secretary or the equal employment opportunity commission all reports due under the applicable filing requirements.

*Additional information.* A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the deputy assistant secretary requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the deputy assistant secretary requests.

*(c) Use of reports.* Reports filed pursuant to this section shall be used only in connection with the administration of the order, the civil rights act of 1964, or in furtherance of the purposes of the order and said act. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

**3. RESERVED**

**4. CONTRACT WORK HOURS AND SAFETY STANDARDS (FROM FAR 52.222- 4)**

The term “contracting officer” herein shall refer to the city of Colorado Springs contracting specialist assigned to this contract.

The term “government” herein shall refer to the city of Colorado Springs and any interested federal or state entity.

*(a) Overtime requirements.* No contractor or subcontractor employing laborers or mechanics (see federal acquisition regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

*(b) Violation; liability for unpaid wages; liquidated damages.* The responsible contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the contractor and subcontractor are liable for liquidated damages payable

to the government. The contracting officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the contract work hours and safety standards statute (found at 40 U.S.C. Chapter 37).

(c) *Withholding for unpaid wages and liquidated damages.* The contracting officer will withhold from payments due under the contract sufficient funds required to satisfy any contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy contractor or subcontractor liabilities, the contracting officer will withhold payments from other federal or federally assisted contracts held by the same contractor that are subject to the contract work hours and safety standards statute

(d) Payrolls and basic records.

(1) The contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by department of labor regulations at 29 CFR 5.5(a)(3) implementing the construction wage rate requirements statute.

(2) the contractor and its subcontractors shall allow authorized representatives of the contracting officer or the department of labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The contractor or subcontractor also shall allow authorized representatives of the contracting officer or department of labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

## **5. CLEAN AIR ACT**

By signing this contract, the contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the clean air act (42 U.S.C. 7401-7671q) and the federal water pollution control act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the environmental protection agency (EPA). Further, the contractor agrees to include this clause in all subcontracts in excess of \$150,000.

## **6. DEBARMENT AND SUSPENSION**

By signing this contract, the contractor certifies to the best of its knowledge and belief that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property;

Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

## **7. BYRD ANTI-LOBBYING AMENDMENT**

By signing this contract, the contractor certifies that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of congress, officer or employee of congress, or an employee of a member of congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Further, the contractor certifies that it has not engaged in lobbying with non-federal funds that takes place in connection with obtaining any federal award. The contractor must require the same certification from all subcontractors with subcontracts valued in excess of \$100,000 under this contract.

## **8. SMALL BUSINESS REQUIREMENTS**

The contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on subcontract solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources for subcontracting;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the small business administration and the minority business development agency of the department of commerce.

## **9. PROCUREMENT OF RECOVERED MATERIALS**

The contractor must comply with section 6002 of the solid waste disposal act, as amended by the resource conservation and recovery act. The requirements of section 6002 include procuring only items designated in guidelines of the environmental protection agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds

\$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## **10. ANTI-KICKBACK PROCEDURES**

### **(a) Definitions.**

“kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

“Prime contract,” as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

“Prime contractor” as used in this clause, means a person who has entered into a prime contract with the United States.

“Prime contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime contractor.

“Subcontract,” as used in this clause, means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

“Subcontractor,” as used in this clause,

(1) means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

(2) Includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

“Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The 41 U.S.C. Chapter 87, kickbacks, prohibits any person from --

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to the United States or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.

(c)

(1) The contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the attorney general.

(3) The contractor shall cooperate fully with any federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The contracting officer may

(i) Offset the amount of the kickback against any monies owed by the United States under the prime contract and/or

(ii) Direct that the prime contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The contracting officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the government unless the government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the prime contractor shall notify the contracting officer when the monies are withheld.

(5) The contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but accepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

## **11. ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS**

(a) Definition. As used in this clause--

“Energy-efficient product”—

(1) Means a product that—

(i) meets department of energy and environmental protection agency criteria for use of the energy star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the department of energy’s federal energy management program.

(2) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The contractor shall ensure that energy-consuming products are energy efficient products (i.e., energy star® products or FEMP-designated products) at the time of contract award, for products that are—

(1) Delivered;

(2) Acquired by the contractor for use in performing services at a federally-controlled facility;

(3) Furnished by the contractor for use by the government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the contractor (including any subcontractor) unless—

(1) The energy-consuming product is not listed in the energy star® program or fem.; or

(2) Otherwise approved in writing by the contracting officer.

(d) Information about these products is available for—

(1) Energy star® at <http://www.energystar.gov/products>; and

(2) fem. at [http://www1.eere.energy.gov/femp/procurement/eep\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/eep_requirements.html).

## **12. BUY AMERICAN—CONSTRUCTION MATERIALS**

(a) Definitions. As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into a construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction

material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means—

(3) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(4) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means—

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

“Foreign construction material” means a construction material other than a domestic construction material.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference.

(1) This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR [12.505\(a\)\(2\)](#)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

None

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that—

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
Item 2:			
Foreign construction material	_____	_____	_____
Domestic construction material			

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of



response; if oral, attach summary.]

[Include other applicable supporting information.]

[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

## EXHIBIT 9.1 – FEDERAL FORMS

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The undersigned duly authorized official of the proposer certifies to the best of its knowledge and belief, that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property.
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (B) of this certification; and
- D. Have not within a three-year period preceding this application/proposal had one or more public transaction (federal, state or local) terminated for cause or default.
- E. Are not on the Comptroller General's List of Ineligible Bidders or any similar list maintained by any other governmental entity.

Where the proposer is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**(Check One)**

**I DO CERTIFY (\_\_\_\_)**

**I DO NOT CERTIFY (\_\_\_\_)**

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_

## EXHIBIT 9.2 – FEDERAL FORMS

### RESTRICTIONS ON LOBBYING CERTIFICATION

Pursuant to United States Public Law 101-121, Section 319, the undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. No Federal appropriated funds have paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person or agency for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned duly authorized official shall require and ensure that the language of this certification be included in any award documents for subcontracts, grants, loans, and cooperative agreements, and that all subcontractors shall so certify and disclose accordingly.

This Certification is a material representation of fact, upon which reliance was placed when this transaction was made or entered into. The submission of this Certification is a prerequisite for making or entering into this transaction, imposed by Title 31 USC Section 1352. Any proposer (person) who fails to file the required certification shall be subject to civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure to file.

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 9.3 – FEDERAL FORMS

### NON-COLLUSION AFFIDAVIT

The undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. That I am an officer or employee of the \_\_\_\_\_(proposing entity) having the authority to sign on behalf of the corporation, and,
2. That the prices in the attached proposal were arrived at independently by \_\_\_\_\_(proposing entity) without collusion, consultation, communication, or any agreement, for the purpose of restricting competition as to any matter relating to such prices with any other proposer or with any other competitor regarding an understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or service described in the RFP/IFB designed to limit independent proposals or competition; and
3. That unless otherwise required by law, the contents and prices contained in the proposal have not been communicated by \_\_\_\_\_(proposing entity) or its employees or agents to any person not an employee or agent of \_\_\_\_\_(proposing entity), or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and,
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 9.4 – FEDERAL FORMS

### EQUAL EMPLOYMENT STATUS REPORT

Contractor's Name \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

This firm is:

\_\_\_\_\_ Independently owned and operated

\_\_\_\_\_ An Affiliate Parent Company

or

\_\_\_\_\_ A Subsidiary of Address \_\_\_\_\_

or

\_\_\_\_\_ A Division City and State \_\_\_\_\_ Zip \_\_\_\_\_

1. Contractor \_\_\_\_\_ HAS \_\_\_\_\_ HAS NOT

Developed and has on file an affirmative action program in conformance with 41 CFR 60-2.

2. Contractor \_\_\_\_\_ HAS \_\_\_\_\_ HAS NOT

Participated in any previous contract or subcontract subject to the equal opportunity clause either with the City or any Federal agency.

3. Contractor \_\_\_\_\_ HAS \_\_\_\_\_ HAS NOT

Filed with the City, or where applicable, joint Reporting Committee, or other Federal Agency, all reports due under the applicable contract(s) or subcontract(s).

Contractor's Equal Employment Opportunity Program \_\_\_\_\_ HAS \_\_\_\_\_ HAS NOT been subject to a Federal Equal Opportunity Compliance Review. If so, then state date of Review below.

\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_